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**FINAL**  
**CITY COUNCIL**  
**CITY OF WICHITA**  
**KANSAS**

City Council Meeting  
09:00 a.m. April 19, 2016

City Council Chambers  
455 North Main

**OPENING OF REGULAR MEETING**

- Call to Order
- Invocation
- Pledge of Allegiance
- Approve the minutes of regular meeting on April 12, 2016

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**VICE MAYOR OATH OF OFFICE**

- Presentation to outgoing Vice Mayor James Clendenin
- Swearing in of New Vice Mayor Lavonta Williams  
(Oath of Office administered by Judge Jennifer Jones)
- Comments from Mayor and City Council Members

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**AWARDS AND PROCLAMATIONS**

- Proclamations:  
  
Ark River Clean Up  
Arbor Day



## **I. PUBLIC AGENDA**

NOTICE: No action will be taken relative to items on this agenda other than referral for information. Requests to appear will be placed on a "first-come, first-served" basis. This portion of the meeting is limited to thirty minutes and shall be subject to a limitation of five minutes for each presentation with no extension of time permitted. No speaker shall be allowed to appear more frequently than once every fourth meeting. Members of the public desiring to present matters to the Council on the public agenda must submit a request in writing to the office of the city clerk prior to twelve noon on the Tuesday preceding the council meeting. Matter pertaining to personnel, litigation and violations of laws and ordinances are excluded from the agenda. Rules of decorum as provided in this code will be observed.

None

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## **II. CONSENT AGENDA ITEMS 1 THROUGH 18**

NOTICE: Items listed under the "Consent Agendas" will be enacted by one motion with no separate discussion. If discussion on an item is desired, the item will be removed from the "Consent Agendas" and considered separately.

*(The Council will be considering the City Council Consent Agenda as well as the Planning, Housing, and Airport Consent Agendas. Please see "ATTACHMENT 1 – CONSENT AGENDA ITEMS" for a listing of all Consent Agenda Items.)*

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## **COUNCIL BUSINESS**

### **III. UNFINISHED COUNCIL BUSINESS**

1. An Ordinance Creating a New Chapter 3.55 of the Code of the City of Wichita, Kansas, Pertaining to the Licensing of Massage Therapy Businesses within the City of Wichita and Regulating the Conduct of Participants therein, and Repealing the Original of Chapter 3.56. (Deferred April 5, 2016)

RECOMMENDED ACTION: Place the Ordinance on first reading and authorize the necessary signatures.

### **IV. NEW COUNCIL BUSINESS**

1. Public Hearing and Request for Letter of Intent for Health Care Facilities Revenue Bonds, Kansas Masonic Home. (District IV)

RECOMMENDED ACTION: Close the public hearing, adopt the Resolution of Intent and authorize the necessary signatures.

2. Authorization to Issue a Request for Proposals for the Potential Sale of the Hyatt Hotel. (District I)

RECOMMENDED ACTION: Authorize staff to draft and issue a Request for Proposals for the sale of the Hyatt Hotel.

3. Wichita Employees' Retirement and Police and Fire Retirement Systems Actuarial Valuation Reports as of December 31, 2015.

RECOMMENDED ACTION: Receive and file the Wichita Employees' Retirement and Police and Fire Retirement Systems' Actuarial Valuation Reports as of December 31, 2015 as submitted, and approve the 2017 employer retirement fund contribution rates.

4. Tourism Business Improvement District - 2017 Scope of Services.

RECOMMENDED ACTION: Receive, approve and file the Tourism Business Improvement District (TBID) 2017 Scope of Services and Budget.

5. Ordinance Amending Title 10 of the Code of the City of Wichita, Kansas, Pertaining to Right-of-Way, Streets and Sidewalks.

RECOMMENDED ACTION: Place the ordinances on first reading and authorize the necessary signatures.

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**COUNCIL BUSINESS SUBMITTED BY CITY AUTHORITIES**

**PLANNING AGENDA**

NOTICE: Public hearing on planning items is conducted by the MAPC under provisions of State law. Adopted policy is that additional hearing on zoning applications will not be conducted by the City Council unless a statement alleging (1) unfair hearing before the MAPC, or (2) alleging new facts or evidence has been filed with the City Clerk by 5p.m. on the Wednesday preceding this meeting. The Council will determine from the written statement whether to return the matter to the MAPC for rehearing.

**V. NON-CONSENT PLANNING AGENDA**

None

**HOUSING AGENDA**

NOTICE: The City Council is meeting as the governing body of the Housing Authority for consideration and action on the items on this Agenda, pursuant to State law, HUD, and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion. Carole Trapp Housing Member is also seated with the City Council.

None

**VI. NON-CONSENT HOUSING AGENDA**

**AIRPORT AGENDA**

NOTICE: The City Council is meeting as the governing body of the Airport Authority for consideration and action on items on this Agenda, pursuant to State law and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion.

**VII. NON-CONSENT AIRPORT AGENDA**

None

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**COUNCIL AGENDA**

**VIII. COUNCIL MEMBER AGENDA**

None

**IX. COUNCIL MEMBER APPOINTMENTS AND COMMENTS**

1. **Board Appointments.**

RECOMMENDED ACTION: Approve the appointments.

Adjournment

**(ATTACHMENT 1 – CONSENT AGENDA ITEMS)**

**II. CITY COUNCIL CONSENT AGENDA ITEMS 1 THROUGH 18**

1. Report of Board of Bids and Contracts dated April 18, 2016.

RECOMMENDED ACTION: Receive and file report; approve the contracts; and authorize the necessary signatures.

2. Applications for Licenses to Retail Cereal Malt Beverages:

<u>Renew</u>	<u>2016</u>	<u>(Consumption on Premises)</u> Steven
T Knolla	Knollas Pizza East LLC**	7732 East Central Ste 123 Liyong
Chen	Kirin Court Corp**	511 South West Street Roberto
Beltran	Tacos Mexican Fast Food**	1930 East Pawnee

\*\*General/Restaurant (need 50% or more gross revenue from sale of food)

RECOMMENDED ACTION: Approve licenses subject to staff review and approval.

3. Preliminary Estimates:

- a. List of Preliminary Estimates.

RECOMMENDED ACTION: Receive and file.

4. Consideration of Street Closures/Uses:

- a. Community Events - Prairie Fire Spring Half Marathon Setup. (District I)
- b. Community Events - Prairie Fire Spring Half Marathon. (Districts I, IV and VI)
- c. Community Events - Prairie Fire Spring Half Marathon 5 K. (Districts I and IV)
- d. Community Events - Tour De Cure. (District III)
- e. Community Events - Heartspring's 9th Annual Autism CARE Walk Set-Up. (District I)
- f. Community Events - Friday Nights at the Fountains. (District I)
- g. Community Events - Food Trucks at the Fountains. (District I)

RECOMMENDED ACTION: Approve the request subject to; (1) Hiring off-duty certified law enforcement officers as required; (2) Obtaining barricades to close the streets in accordance with requirements of Police, Fire and Public Works Department; and (3) Securing a Certificate of Liability Insurance on file with the Community Events Coordinator.

5. Minutes of Advisory Boards/Commissions:

Joint Investment Committee, March 3, 2016

RECOMMENDED ACTION: Receive and file.

6. Lead-Based Paint Hazard Control Grant Application. (Districts I and VI)

RECOMMENDED ACTION: Approve submission of the application for the Lead-Based Paint Hazard Control Grant and acceptance of funds if awarded, and authorize the necessary signatures.

7. Capital Improvement Project Design Agreements. (Districts I, III, IV, V and VI)

RECOMMENDED ACTION: Approve the design concept agreements for the paving projects, signalization project, and the new waterline crossing the Big Ditch, approve the final design agreements for the water main replacement projects, adopt the resolutions, and authorize the necessary signatures.

8. Report on Claims for March, 2016.

RECOMMENDED ACTION: Receive and file.

9. Sale of City-owned Property at 3017 and 3021 East 13th Street North. (District I)

RECOMMENDED ACTION: Approve the sale; approve the real estate agreement; and authorize any necessary signatures.

10. Order of Succession Resolution.

RECOMMENDED ACTION: Adopt the resolution and authorize the necessary signatures.

11. Second Reading Ordinances: (First Read April 12, 2016)

RECOMMENDED ACTION: Adopt the Ordinances.

## **II. CONSENT PLANNING AGENDA ITEMS**

NOTICE: Public hearing on planning items is conducted by the MAPC under provisions of State law. Adopted policy is that additional hearing on zoning applications will not be conducted by the City Council unless a statement alleging (1) unfair hearing before the MAPC, or (2) alleging new facts or evidence has been filed with the City Clerk by 5p.m. on the Wednesday preceding this meeting. The Council will determine from the written statement whether to return the matter to the MAPC for rehearing.

12. \*SUB2015-00039 -- Plat of Advanced Learning Library Addition Located on the Southwest Corner of West 2nd Street North and North MacLean Boulevard. (District VI)

RECOMMENDED ACTION: Approve the document and plat and authorize the necessary signatures for approval and ownership of the plat.

13. \*SUB2016-00006 -- Plat of Flint Hills Materials Addition Located on the North Side of East 29th Street North, East of North Broadway Avenue. (District VI)

RECOMMENDED ACTION: Approve the document and plat and authorize the necessary signatures.

14. \*PUD2016-00001 – Zone Change from LC Limited Commercial Under Community Unit Plan (CUP) DP 226 to Planned Unit Development #49 on Property Generally Located North of East Kellogg and ½ Mile East of 143rd Street East. (District II)

RECOMMENDED ACTION: Approve the requested zone change subject to the MAPC recommended conditions (simple majority vote) and place the ordinance on first reading.

## **II. CONSENT HOUSING AGENDA ITEMS**

NOTICE: The City Council is meeting as the governing body of the Housing Authority for consideration and action on the items on this Agenda, pursuant to State law, HUD, and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion.

None

## **II. CONSENT AIRPORT AGENDA ITEMS**

NOTICE: The City Council is meeting as the governing body of the Airport Authority for consideration and action on items on this Agenda, pursuant to State law and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion.

15. \*Federal Aviation Administration - Lease No. DTFACN-12-L-00014, Supplemental Agreement No. 3 - 1801 Airport Road - Wichita Dwight D. Eisenhower National Airport.

RECOMMENDED ACTION: Approve the Supplemental Agreement and authorize the necessary signatures.

16. \*Midwest Corporate Aviation, Inc. Assignment of Lease - Colonel James Jabara Airport.

RECOMMENDED ACTION: Approve the MCA Lease Assignment to INTRUST Bank, N.A.

17. \*Pavement Condition Inventory - Wichita Dwight D. Eisenhower National Airport.

RECOMMENDED ACTION: Approve the budget, contract, and authorize the necessary signatures, as well as authorize the Director of Airports to sign all the documents related to the grants.

18. *\*WAA Report of Board of Bids and Contracts dated April 18, 2016.*

RECOMMENDED ACTION: Receive and file report; approve the contracts; and authorize the necessary signatures

City of Wichita  
City Council Meeting  
April 19, 2016

**TO:** Mayor and City Council

**SUBJECT:** An Ordinance creating a new Chapter 3.55 of the Code of the City of Wichita, Kansas, pertaining to the licensing of Massage Therapy Businesses within the City of Wichita and regulating the conduct of participants therein, and repealing the original of Chapter 3.56. (All Districts)

**INITIATED BY:** Police Department

**AGENDA:** Unfinished Business

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**Recommendation:** Place the ordinance on first reading.

**Background:** Since 2013, the Wichita Police Department (WPD) has received complaints of certain local massage businesses engaging in sexual relations for hire. From 2014 through 2015, the WPD doubled investigations and arrests in massage businesses engaged in this illegal activity. These investigations and arrests revealed that women who were being used in illegal massage businesses were often victims of human trafficking. During the follow-up investigations, the operators and owners of these businesses admitted to setting up shop in Kansas because there was no state law regulating massage businesses. Kansas is one of only four states that do not regulate massage businesses/therapists. The Kansas Legislature has been unable to enact such legislation for the past three years. Several cities in Kansas have enacted local ordinances regulating this industry to combat illegal massage businesses that engage in human trafficking and sex for hire in their communities. Currently, Chapter 3.56 of the City Code addresses the regulation of bathhouses and massage salons but the provisions of that ordinance are so dated it has been of little use in regulating these businesses and will be repealed by the proposed ordinance.

During the City Council presentation on April 5, 2016, it was unanimously voted to defer this item to April 19, 2016 so that staff can address new information.

**Analysis:** The proposed ordinance creates Chapter 3.55 of the City Code and will provide useful and current regulation of both massage businesses and massage therapists. This ordinance has been reviewed by an internal committee that included staff from Police, Law, Finance, Fire, Licensing, Zoning and Public Works. Committee members also sought input from local massage therapists and met with these providers several times to refine these regulations. The ordinance proposed in Chapter 3.55 includes the following:

- Qualifications and procedures for obtaining a massage therapy business license;
- Qualifications and procedures for individual massage therapy permits;
- Requirements for licensing existing practitioners; and
- Provisions for suspension, revocation and appeal.

**Financial Considerations:** Licenses and permits will be issued on a biennial basis through the City Licensing Office with fees of \$75 for a Massage therapist permit and \$200 for a Massage Business license. It is estimated there will be 20 massage business license applications. Based on the fee of \$200 each, this would generate an estimated \$4,000 every two years. It is also estimated there will be 200 massage therapist permit applications. Based on the fee of \$75 each, this would generate an estimated \$15,000 every two

years. It is estimated the initial set up costs to administer these new licenses and permits will be less than \$500. The fees collected will be used to offset staff costs incurred.

**Legal Considerations:** The Law Department has prepared the proposed ordinance and approved as to form.

**Recommendation/ Actions:** It is recommended that the City Council place the ordinance on first reading and authorize the necessary signatures.

**Attachments:** Copy of the proposed new ordinance and Massage Ordinance Reference Sheet



Published in the Wichita Eagle April 29, 2016

CLEAN

ORDINANCE NO. 50-175

4/11/16

AN ORDINANCE CREATING NEW CHAPTER 3.55 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO THE LICENSING OF MASSAGE THERAPY BUSINESSES WITHIN THE CITY OF WICHITA AND REGULATING THE CONDUCT OF PARTICIPANTS THEREIN, AND REPEALING THE ORIGINAL OF CHAPTER 3.56.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA,  
KANSAS:

SECTION 1. Section 3.55.010 of the Code of the City of Wichita, Kansas, is hereby created to read as follows: **“Definitions.**

Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms shall, for the purposes of this chapter, have the meaning indicated in this section:

- (1) “Accredited institution” means a post-secondary institution that is accredited by one of the Regional Agencies of the Higher Learning Commission or an institution recognized by the Kansas Board of Regents to provide vocational, technical or post-secondary education in the state of Kansas.
- (2) “Chief of Police” means the Chief of Police of the City of Wichita or a designated representative.
- (3) “City” means the City of Wichita, Kansas.
- (4) “Clean” means the absence of soil, dirt, and debris.

- (5) “Client” means any person who receives any service of a massage therapy business.
- (6) “Council” means the Wichita City Council.
- (7) “Crimes involving moral turpitude” includes charges of sale of sexual relations, prostitution, buying sexual relations, patronizing a prostitute, human trafficking, promoting prostitution, aggravated human trafficking, sodomy, soliciting for immoral purposes, public nudity, lewd and lascivious behavior, sexual battery, loitering for the purposes of solicitation, indecent liberties with a child, incest, adultery, bigamy, promoting obscenity, promoting obscenity to minors, displaying material harmful to minors, any crime set forth in Article 55 of Chapter 21 of the Kansas Statutes Annotated, possession, sale or distribution of any illegal drug or controlled substance or any other offenses similar to those listed herein that are contrary to the laws of any city, state or of the United States.
- (8) “Disinfect” means to use an EPA-registered product effective against Methicillin Resistant *Staphylococcus aureus* (MRSA) and Vancomycin Resistant *Enterococcus faecalis* or *faecium* (VRE) according to manufacturer’s instructions.
- (9) “Employee” means any and all persons employed in any capacity by the operator of a massage therapy business, including independent contractors, who work in, at, or render any services to the patrons of a massage therapy business or who render any service directly related to the operation of a massage therapy business.
- (10) “EPA” means the United States Environmental Protection Agency.
- (11) “Health Officer” means the Director of Public Works of the City of Wichita or a designated representative.

- (12) “Laundered” means using either regular commercial laundering or a noncommercial laundering process in which the towels, robes, bandages, pads or other articles are washed on a hot water setting with detergent and at least one (1) cup of bleach or an antibacterial agent used in accordance with product label instructions in a clothes washer and dried on a high heat setting in a dryer; or a noncommercial laundering process in which the towels, robes, linens, or other articles are immersed in water with a temperature of at least 140 degrees Fahrenheit for at least 15 minutes during the washing or rinsing operation.
- (13) “License” means the license issued by the City to operate a massage therapy business.
- (14) “Massage therapist” means any person who administers massage therapy, except as exempted in Section 3.55.020.
- (15) “Massage therapist school” means an approved massage therapy education program that meets the criteria established in this Chapter, and any amendments thereto, and is both authorized in the jurisdiction in which it is located and that reflects a curriculum acceptable to an accrediting body recognized by the United States Department of Education. Education received outside of the United States must be substantially equivalent to the criteria of this Chapter and must be recognized by the jurisdiction in which it is located.
- (16) “Massage therapy” or “massage” means care and services provided in a system of therapeutic, structured touch, palpation or movement of the skin, muscle, tendons, fascia and the lymphatic system of another person’s body in order to enhance or restore the general health and well-being of the recipient. Such a

system includes, but is not limited to techniques such as effleurage, commonly called stroking or gliding; petrissage, commonly called kneading; tapotement or percussion; friction, vibration, compression; stretching within the normal anatomical range of movement; hydrotherapy; or such techniques which may be applied with or without the aid of lubricants, salt or herbal preparations, water, hot and cold application or a massage device that mimics or enhances the actions possible by human hands.

Massage therapy shall not include diagnosis or treatment or use of procedures for which a license to practice medicine or surgery, chiropractic, or podiatry is required, and does not include the laying on of hands performed within the context of religious or spiritual beliefs.

- (17) “Massage therapy business” means any business offering or providing massage therapy for consideration except as exempted in Section 3.55.020; and whether at a fixed place of business or at a location designated by the customer or client through outcall massage services. The term “massage therapy business” includes a massage therapist who is the sole owner, operator and employee of a massage therapy business operating as a sole proprietorship.
- (18) “Offer” includes any form of communication, by any medium.
- (19) “Official transcript” means a document certified by a school on a form approved and prescribed by the United States Department of Education or other regulating authority, indicating the hours and types of coursework, examinations and scores that were completed by the student.

- (20) “Operator” means the person to whom a massage therapy business license is issued.
- (21) “Outcall massage” means the engaging in or carrying on of massage therapy for compensation in a location other than the business operations address set forth in the massage establishment’s massage therapy business license.
- (22) “Permit” means the permit issued by the City to a massage therapist.
- (23) “Person” means any individual, corporation, partnership, association, firm, joint venture, company or other state franchised business entity such as a professional association, limited liability company, limited liability partnership or other organization of any kind.
- (24) “Sole proprietorship” means and includes any legal form of business organization where the business owner (sometimes referred to as the “sole proprietor”) is the only person employed by that business to provide massage services.”

SECTION 2. Section 3.55.020 of the Code of the City of Wichita, Kansas, is hereby created to read as follows: **“Exceptions.**

The provisions of this chapter shall not apply to the following:

- (1) Persons holding an unrevoked license or certificate to practice any of the healing arts under the laws of the state of Kansas; persons licensed under the laws of this state to practice any of the following: podiatry, as a physical therapist, as a professional nurse or as a practical nurse while such persons are engaged in their licensed practice; and all persons working under the supervision and control of such licensed persons while engaged in their licensed practice;

- (2) any medical care facility as defined and licensed under the laws of this state applicable to such medical care facility or persons employed thereby, while engaged in their usual duties for such medical care facility;
- (3) any adult care home as defined and licensed under the laws of this state applicable to such adult care home or persons employed thereby, while engaged in their usual duties for such adult care home;
- (4) any person engaged in barbering or in the practice of cosmetology or apprentice while carrying out their particular profession or business and holding a valid, unrevoked license or certificate of registration issued under the laws of this state applicable to such barbering or cosmetology practice;
- (5) employees of schools supported primarily by taxation, of schools exempt from payment of property taxes, and of “proprietary schools,” approved by the Kansas Board of Regents while engaged in their usual duties for the school;
- (6) any person providing massage therapy to a person related to them by blood or marriage when there is no charge for such massage therapy;
- (7) massage therapy students enrolled in a proprietary school approved by the Kansas Board of Regents while under the direct supervision of a licensed massage therapist; or
- (8) A trainer of any duly constituted athletic team while in the normal course of his or her duties.”

SECTION 3. Section 3.55.030 of the Code of the City of Wichita, Kansas, is hereby created to read as follows: **“License required.**

It is unlawful for any person to operate a massage therapy business without a valid license as required by this chapter.”

SECTION 4. Section 3.55.040 of the Code of the City of Wichita, Kansas, is hereby created to read as follows: **“Application for license.**

- (a) Any person desiring to obtain a license to operate a massage therapy business shall make written application to the City Treasurer’s office.
- (b) The application shall be verified and accompanied by the license fee.
- (c) All applicants shall provide the following information under oath:
  - (1) The full true name and any other aliases used by the applicant;
  - (2) If the applicant is an individual, the name, date of birth, race, sex, address, telephone number and email address of the proposed licensee;
  - (3) The name, address and telephone number of the business and type of business organization (individual, partnership, corporation or limited liability company). If the business is a partnership, corporation or limited liability company, the same information required of an individual applicant in Subsections (2), (8), (9) and (10) is required of all partners, officers, directors, managers, members or persons owning more than 5% of the common or preferred stock of the business;
  - (4) The proposed address and name or names of the premises upon which the massage therapy business for which a license is sought will be located and any name under which the applicant plans to conduct business (“dba” name);

- (5) The hours that the massage therapy business service will be open to the public, including such times that the door or doors providing entry to the massage therapy business may be locked as allowed in Subsection 3.55.170(e) and amendments thereto;
- (6) The name of the owner of the premises upon which the message therapy business is to be located;
- (7) A Certificate of Good Standing from Kansas, or other state of incorporation or registration, if the applicant is a corporation, partnership or limited liability company;
- (8) A statement that the applicant or any partner, officer, director, manager, member or person owning more than 5% of the common or preferred stock of the business has not within five (5) years preceding the date of application been convicted of, or on diversion or deferred judgment for any felony or any crime of moral turpitude as defined in Subsection 3.55.010(7);
- (9) A statement that the applicant or any partner, officer, director, manager, member or person owning more than 5% of the common or preferred stock of the business is currently under indictment, charge or information for any felony or any crime of moral turpitude as defined in Subsection 3.55.010(7);
- (10) A statement as to whether the applicant or any partner, officer, director, manager, member or person owning more than 5% of the common or preferred stock of the business is a registered sex offender;



- (11) Information as to whether such individual or business has ever been refused any similar license or permit, or has had any similar license or permit issued to such individual or business in Wichita or elsewhere revoked or suspended, and the reason thereof; and
- (12) A statement by the applicant that he or she is familiar with the provisions of this chapter and is complying and will comply with them.”

SECTION 5. Section 3.55.050 of the Code of the City of Wichita, Kansas, is hereby created to read as follows: **“Standards for issuance of license.**

- (a) To receive a license to operate a massage therapy business, all applicants must meet the following standards:
  - (1) The required fees must be paid;
  - (2) The application must be complete and provide all information required by Section 3.55.040;
  - (3) The applicant must not have knowingly made a false or misleading statement of a material fact in the application;
  - (4) The applicant must be at least eighteen years of age;
  - (5) The applicant must not, within five years immediately preceding the date of the filing of the application, have been convicted in any jurisdiction of a felony or crime involving moral turpitude as defined in this chapter. For the purposes of this section the term “conviction” shall include being placed on diversion, entering into a deferred judgment program, or being adjudged guilty upon entering a plea of no contest;

- (6) The applicant must not be currently under indictment, charge or information for any felony or any crime of moral turpitude as defined in Subsection 3.55.010(7);
  - (7) The applicant must not be a registered sex offender with any federal, state or local government;
  - (8) The applicant must not have had a similar type of license in any jurisdiction previously suspended or revoked for good cause within five years immediately preceding the date of the filing of the application; and
  - (9) The operation of the business as proposed, if permitted, must comply with all applicable building, fire, health and zoning laws, including compliance with Article IV.E of the Wichita-Sedgwick County Unified Zoning Code when located in a residence. Additionally, any business operating out of a residence shall obtain a Home Occupation License as required by Chapter 3.96 of the City Code.
- (b) If the applicant is a partnership, corporation, limited liability company or other type of organization where two or more persons have a financial interest the following standards must be met:
- (1) All persons having financial interest in the partnership, corporation or other type of organization shall be at least eighteen years of age. Financial interest in a corporation includes any officer or director of the corporation and any stockholder holding more than five percent (5%) of the stock of a corporation;

- (2) No person having a financial interest in the partnership, corporation, limited liability company or any other type of organization shall, in any jurisdiction, have been convicted of, pled no contest to, or participated in a diversion or deferred judgment program, after having been charged with a felony or any crime involving moral turpitude as defined in Section 3.55.010(7) within the immediate five years preceding the date of the application;
- (3) No person having a financial interest in the partnership, corporation, limited liability company or any other type of organization shall be currently under indictment, charge or information for any felony or any crime of moral turpitude as defined in Subsection 3.55.010(7); and
- (4) No person having a financial interest in the partnership, corporation, limited liability company or any other type of organization shall be a registered sex offender with any federal, state or local government.”

SECTION 6. Section 3.55.060 of the Code of the City of Wichita, Kansas, is hereby created to read as follows: **“Permit required, exception.**

It is unlawful for any individual person to practice massage therapy without a valid massage therapist permit as required by this chapter. Provided, however, permits are not required for students enrolled in a massage therapy program at an accredited institution during the time such student is completing a clinical requirement for graduation and is practicing massage therapy while under the direct supervision of a massage therapist who holds a valid permit under this chapter. Direct supervision requires the presence of the massage therapist

holding a permit under this chapter to be on the same premises as the student providing massage therapy services.”

SECTION 7. Section 3.55.070 of the Code of the City of Wichita, Kansas, is hereby created to read as follows: **“Application for permit.**

(a) Any person desiring to secure a permit to practice massage therapy shall make written application to the City Treasurer on a form provided for that purpose. The application shall be accompanied by the required licensee fee and shall provide the following information:

- (1) The applicant’s full name, address, date of birth, any other used aliases, gender, present and previous employment for the past five years and current phone number and current email address, if available;
- (2) The applicant’s city, state and country of residence for the five years immediately preceding the date of the application;
- (3) A statement that the applicant is a citizen or lawful resident of the United States and is not less than eighteen years of age;
- (4) A statement that the applicant has not been convicted of a felony or any crime involving moral turpitude as defined in Section 3.55.010(7) within five years immediately preceding the date of the application. For the purposes of this section the term “conviction” shall include being placed on diversion, entering into a deferred judgment program, or being adjudged guilty upon entering a plea of no contest;

- (5) A statement that the applicant is not currently under indictment, charge or information for any felony or any crime of moral turpitude as defined in Subsection 3.55.010(7);
- (6) A statement that the applicant is not a registered sex offender with any federal, state or local government;
- (7) Proof of any education, training and experience the applicant may have had qualifying applicant to administer the service of a massage therapist as required by Section 3.55.080(5) or, if applicable, Section 3.55.085(2) of this Code;
- (8) Information as to any prior permit or license allowing the practice of massage therapy issued to the applicant within the past five years. Specifically, the applicant shall provide information as to the type of license, the issuing agency or jurisdiction, the address and phone number of the issuing agency or jurisdiction, the time period covered by the prior license and whether any such license issued to applicant in any jurisdiction was ever revoked or suspended and the reason or reasons for such revocation or suspension; and
- (9) Information as to whether applicant has ever been refused or denied any permit or license allowing the practice of massage therapy within the past five years and the specific date of such refusal or denial, the jurisdiction where such refusal or denial occurred, the address and phone number of the agency denying or refusing such license or permit and reason for such refusal or denial.”

SECTION 8. Section 3.55.080 of the Code of the City of Wichita, Kansas, is hereby created to read as follows: **“Standards for issuance of permit.**

To receive a permit to provide services as a massage therapist an applicant must meet the following standards:

- (1) The applicant must be at least eighteen years of age and a lawful citizen or resident of the United States.
- (2) The applicant must not have been convicted or released from imprisonment after conviction of a felony or any crime involving moral turpitude within five years immediately preceding the date of application. For the purposes of this section the term “conviction” shall include being placed on diversion, entering into a deferred judgment program, or being adjudged guilty upon entering a plea of no contest.
- (3) The applicant must not be currently under indictment, charge or information for any felony or any crime of moral turpitude as defined in Subsection 3.55.010(7);
- (4) The applicant must not be a registered sex offender with any federal, state or local government.
- (5) The applicant must provide one of the following:
  - (a) Proof the applicant has sat for and passed the Massage and Bodywork Licensure exam (MBLEx); or
  - (b) Proof the applicant has sat for and passed the National Certificate of Therapeutic Massage and Bodywork exam (NCTMB) prior to February 1, 2015; or

- (c) An official transcript showing the applicant has successfully completed a minimum of five hundred (500) instructor taught classroom hours within a recognized massage therapist school; or
  - (d) Proof of one hundred fifty (150) hours of education from an accredited institution, at least twelve (12) hours of continuing education units in the last five (5) years, and membership in a nationally recognized massage therapy association.
- (6) The applicant must not have had a similar type of permit or license suspended or revoked in any jurisdiction within five years immediately preceding the date of the filing of the application.”

SECTION 9. Section 3.55.085 of the Code of the City of Wichita, Kansas, is hereby created to read as follows: “**Licensing of Existing Massage Practitioners.**

For a period of one (1) year after the effective date of this Chapter, an applicant may obtain a renewable permit to provide services as a massage therapist by meeting the following standards:

- (1) The applicant must meet the requirements contained in Subsection (1), (2), (3), (4) and (6) of Section 3.55.080, and amendments thereto; and
- (2) The applicant meets one of the following requirements:
  - (a) The applicant has completed a minimum of five hundred (500) hours of instruction relating to massage therapy at a massage school or comparable legal authority in another state verified by affidavit; or
  - (b) The applicant has completed at least three hundred (300) hours of training in massage therapy during the past three (3) years; or

- (c) The applicant has practiced for at least ten (10) hours per week for five (5) years verified by affidavit and at least one additional form of documentation including, but not limited to tax returns, gross tax receipts, business advertising literature or monthly client receipts; or
- (d) The applicant has successfully passed a nationally recognized certification examination provided by the National Certification Board for Therapeutic Massage and Bodywork.”

SECTION 10. Section 3.55.090 of the Code of the City of Wichita, Kansas, is hereby created to read as follows: **“Fees.**

- (a) For every massage therapy business there shall be a two (2) year license fee of two hundred (\$200). This fee shall accompany all initial and renewal license applications and no license shall be issued until the fee is paid in full.
- (b) For every massage therapist permit there shall be a two (2) year permit fee of seventy-five dollars (\$75). This fee shall accompany all initial and renewal applications for a permit and no permit shall be issued until the fee is paid in full.
- (c) There shall be a fee of five dollars (\$5.00) for replacement of the identification card required in Section 3.55.110.
- (d) All fees set forth in this section are non-refundable and no fees shall be pro-rated.”

SECTION 11. Section 3.55.100 of the Code of the City of Wichita, Kansas, is hereby created to read as follows: **“Display of license – massage therapy business.**

The license issued pursuant to the requirements of this chapter shall be displayed in a conspicuous public place within the premises licensed as a massage therapy business. Failure to



display such license shall be deemed a violation of this chapter and punishable as set forth in Section 3.55.220.”

SECTION 12. Section 3.55.110 of the Code of the City of Wichita, Kansas, is hereby created to read as follows: **“Display of permits and identification cards – massage therapist.**

All massage therapists holding a permit under the provisions of this chapter shall, at all times when working in a massage therapy business or providing any service regulated by this chapter, have in their possession a valid identification card issued by the City and bearing the massage therapist’s permit number and photograph. Such identification card shall be laminated to prevent alteration. All persons granted permits under this chapter shall at all times keep their permits available for inspection upon request by any law enforcement officer, Health Officer, or designated representative thereof. It is unlawful for any permit holder to engage in any activity within the purview of this chapter without having such permit in his or her possession and failure to do so shall be punishable as set forth in Section 3.55.220.”

SECTION 13. Section 3.55.120 of the Code of the City of Wichita, Kansas, is hereby created to read as follows: **“Duration of license or permit, renewal thereof.**

A license to operate a massage therapy business and a permit to perform services as a massage therapist issued pursuant to the provisions of this chapter are both valid for a term of two years. Such license and permits must be renewed to continue operation of a massage therapy business or before performing services as a massage therapist in the following year. Application for renewal must be made not later than thirty days prior to the date of expiration of the license.”

SECTION 14. Section 3.55.130 of the Code of the City of Wichita, Kansas, is hereby created to read as follows: **“Suspension or revocation of license or permit, notice.**

- (a) A license or permit issued pursuant to this chapter may be suspended for up to thirty (30) days by the Health Officer or the Chief of Police. Any suspension shall be upon five (5) days' written notice of the permit holder or licensee, or if the licensee is a corporation or other business entity, any of its officers, directors, partners, associates, managers, persons owning more than five percent of a corporation's stock or any employee thereof has:
- (1) failed to provide complete information as requested on any application or if any data is not updated as required by this chapter; or
  - (2) failed to pay the license fee; or
  - (3) violated any provision of this chapter or any other ordinance, rule or regulation by the City Council of the City of Wichita which is not specified in subsection (b) below as grounds for revocation of a license or permit; or
  - (4) has aided or abetted the commission of, or knowingly allowed or encouraged any act which is a violation of this chapter which is not specified in subsection (b) below as grounds for revocation of a license or permit; or
  - (5) A license or permit issued under this chapter may be suspended if the premises are in violation of the sanitary requirements set forth in Section 3.55.150 of this chapter, or are in violation of the health, fire, zoning or building codes of the City of Wichita, or the State of Kansas.
- (b) A license or permit issued pursuant to this chapter may be revoked by the Health Officer or the Chief of Police. Any revocation shall be upon five (5) days' written

notice of the licensee or permit holder, or if the licensee is a corporation or other business entity, any of its officers, directors, partners, associates, managers, persons owning more than five percent of a corporation's stock or any employee thereof:

- (1) has knowingly made any false statement or given any false information in connection with an application for a permit or license or a renewal of a permit or license; or
  - (2) has been convicted of, or is under indictment, charge or information for any felony or any crime of moral turpitude as defined in Subsection 3.55.010(7) or any act which would be grounds for denial of an application for a permit or license, or otherwise becomes ineligible for a license or permit; or
  - (3) has failed to allow the entry upon and inspection of the premises as required by Section 3.55.160 of this chapter; or
  - (4) A license or permit issued under this chapter may be revoked upon the commission by the licensee or permit holder of four or more offenses as set forth in subsection (a) above within a two (2) year period. For the purposes of this provision, it is irrelevant whether an offense occurred before or after suspension for a previous offense or whether the offense or offenses occurred on or upon the same licensed premises.
- (c) For the purposes of this section, 'conviction' shall include being placed on diversion or deferred judgment or being adjudged guilty upon entering a plea of no contest, and the filing of charges or a conviction in a court of law is not

required to establish that a licensee or permit holder has violated any provision of this chapter or any other ordinance, rule or regulation by the City Council of the City of Wichita. A certified copy of conviction from any local or state court is prima facie evidence of a violation.

- (d) For the purposes of subsections (a) and (b) of this section, the Health Officer or the Chief of Police shall provide written notice of the intent to revoke, suspend or deny a massage therapy business license or a massage therapist permit by personal service or by certified mail, return receipt requested. The notice shall be sent to the mailing address of the licensee on file with the City Treasurer. The notice shall provide the effective date of the revocation or suspension of the license or permit. Such notice shall detail the reasons or basis for the suspension or revocation of the license or permit and shall specify the rights of the licensee to appeal any such revocation or suspension.”

SECTION 15. Section 3.55.140 of the Code of the City of Wichita, Kansas, is hereby created to read as follows: **“Appeal Procedure.**

- (a) Any applicant, licensee or permit holder aggrieved by the denial, suspension or revocation of a massage therapy business license or a massage therapist permit may file with the City Clerk a written notice of appeal to the City Council within ten (10) business days of the decision by the Health Officer or Chief of Police or his or her designee. The Notice of Appeal shall specify:
  - (1) the name and address of the appellant;
  - (2) the date of application;

- (3) the date of the denial, suspension or revocation of the license, permit or application; and
- (4) the factual basis for the appeal.
- (b) Upon receipt of a complete and timely filed Notice of Appeal, the City Clerk shall schedule a hearing before the City Council, no later than thirty (30) days from the date of the filing of the Notice of Appeal with the City Clerk. Any appeal shall stay the suspension or revocation of the license or permit until the matter is heard by the City Council.
- (c) The City Council may approve the denial, suspension or revocation, overrule the denial, suspension, or revocation or modify the decision of the Health Officer or the Chief of Police.
- (d) In any hearing before the City Council pursuant to this section, a certified copy of a conviction from any local, state, or federal court for any violation, is prima facie evidence of such violation.
- (e) The City Council's decision may be appealed to the Eighteenth Judicial District Court of the State of Kansas pursuant to K.S.A. 60-2101 and any amendments thereto. Any such appeal to the District Court shall not stay the denial, suspension or revocation of the license, or any modification imposed thereupon by the City Council."

SECTION 16. Section 3.55.150 of the Code of the City of Wichita, Kansas is hereby created to read as follows: **"Sanitary requirements.**

All massage therapy business facilities and equipment must comply strictly with the following sanitary conditions:

- (a) All surfaces of floors, walls, and ceilings and all equipment used in massage therapy must be capable of being cleaned easily.
  - (b) All surfaces subject to dermal contact used in the treatment of clients must be completely cleaned and disinfected after every use or covered with a fresh, sanitary, disposable liner or cover or with a cloth sheet or cover that has not been previously used for a different client since laundering.
  - (c) Towels, robes, bandages, pads, paper, or other articles that come into contact with any part of the client's body must be laundered, cleaned and disinfected, or disposed of after each use and before being used by a different client.
  - (d) Covers, liners, or sheets designated in subsection (c) of this section must be stored prior to use in a sanitary dustproof environment.
  - (e) Lavatory and toilet facilities must be provided, along with adequate and convenient hand-washing facilities, including hot and cold running water, soap and towels, which are accessible to employees.
  - (f) Wet and dry heat rooms, shower compartments, and toilet rooms shall be thoroughly cleaned and disinfected each day the business is in operation.
- Bathtubs shall be thoroughly cleaned and disinfected after each use.”

SECTION 17. Section 3.55.160 of the Code of the City of Wichita, Kansas, is hereby created to read as follows: **“Inspection of premises; immediate right of entry.**

The premises of a massage therapy business shall be open to inspection by any Health, Fire, Zoning, and License and Building code enforcement personnel of the City of Wichita, as well as Wichita Police Officers or personnel from other law enforcement agencies during any hours in which any person is present thereon. Such inspections shall be for the purposes of

determining compliance with the provisions of this chapter. Failure by any person to allow any code enforcement inspector or law enforcement official immediate access to the premises or to hinder such inspector or officer in any manner shall be grounds for revocation or suspension of any massage therapy business license and/or employee permit.”

SECTION 18. Section 3.55.170 of the Code of the City of Wichita, Kansas, is hereby created to read as follows: **“Operating requirements - massage therapy business.**

- (a) Written receipts to clients available. A massage therapy business shall make available upon request by a patron a written receipt of payment for massage therapy services. The receipt shall clearly state the type of services performed and the total amount of money such services cost the client.
- (b) Employee registers required. The owner, operator, supervising employee or anyone in control of a massage therapy business shall maintain a daily register/time sheet for all employees of the massage therapy business on a form approved by the Chief of Police and shall contain the identifying information for all employees, including the name, address, birth date, gender and duties of each employee, the hours of employment on a daily basis of each employee, and such other information as may be required by the Health Officer or Chief of Police. The daily register required in this subsection shall be kept on file upon the same premises as the licensed business for a period of one year, and shall be kept for all persons deemed “employees” as that term is defined in Section 3.55.010(9) and amendments thereto.

- (c) The owner, operator, supervising employee or anyone in control of a massage therapy business shall maintain a copy of the massage therapist permit for all employees who are required to be licensed by this chapter.
- (d) Hours of operation. A licensed massage therapy business shall be closed and operations shall cease between the hours of 12:00 midnight and 6:00 a.m. each day.
- (e) The door or doors providing entry to a massage therapy business by the public shall remain unlocked during business hours when the establishment is open for business or when clients are present. Provided, however, if a massage therapy business is operating as a sole proprietorship and does not have staff available to assure security and safety for clients and massage staff behind closed doors, the door or doors providing entry area to the massage therapy business may be locked during business hours.
- (f) Conduct of premises. All licensees licensed under the provisions of this chapter shall at all times be responsible for the conduct of all employees, independent contractor massage therapists and the employees of an independent contractor massage therapist while on the licensed premises and for any act or omission constituting a violation of the provisions of this chapter. Any violation of city, state or federal laws committed on the licensed premises by such licensee, employee, independent contractor massage therapist or the employee of an independent contractor massage therapist affecting the eligibility or suitability of such person to hold a license may be grounds for suspension or revocation of the same.



- (g) Supervision of licensed premises. A licensee shall have the premises supervised at all times when open for business. The licensee, the licensee's resident agent if a corporation, or a person employed and permitted as a massage therapist shall be personally upon the premises and supervising the business at all such times and shall not violate or permit others to violate any applicable provision of this chapter. The violation of any such provision by any agent or employee of the licensee shall constitute a violation by the licensee.

SECTION 19. Section 3.55.180 of the Code of the City of Wichita, Kansas, is hereby created to read as follows: **"Prohibited acts.**

It shall be unlawful and punishable as set forth in Section 3.55.220 for any operator, agent or employee of an operator, massage therapist, independent contractor massage therapist, or employee of an independent contractor massage therapist to commit any of the following acts:

- (a) permit to be performed, offer to perform or perform with any client any sexual act prohibited by state statute or city ordinance; including sale of sexual relations; or
- (b) permit to be performed, offer to perform or perform with any client an act of sexual intercourse, oral-genital contact, anal copulation, the touching of the sexual organs, pubic region, female breast of a person, or manual or other contact stimulation of the genitalia for the purpose of arousing or gratifying the sexual desires of the operator, agent, employee, massage therapist or client; or
- (c) expose while administering massage therapy for compensation the human male or female genitals, anus, anal cleft or cleavage; the female breast below a horizontal line across the top of the areola at its highest point, which includes the entire lower portion of the human female breast, but does not include any portion of the

- cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit or other wearing apparel, provided the areola is not exposed in whole or in part; or covered male genitals in a discernibly turgid state; or
- (d) while in the presence of any person, or while administering or receiving massage therapy fail to cover with a fully opaque covering the human male or female genitals, anus, anal cleft or cleavage; the female breast below a horizontal line across the top of the areola at its highest point, which includes the entire lower portion of the human female breast, but does not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit or other wearing apparel, provided the areola is not exposed in whole or in part; or
- (e) for any person who owns, rents, leases, operates or manages a massage business to cause, allow, or permit in or about said massage business, any person to engage in the acts prohibited in this section.”

SECTION 20. Section 3.55.190 of the Code of the City of Wichita, Kansas, is hereby created to read as follows: **“Persons under age 18 prohibited services.**

No licensee or permit holder shall perform or permit any massage therapy to be provided to a person under the age of 18 years, provided a person under the age of 18 years may utilize or receive massage therapy from a massage therapist if accompanied by a parent or legal guardian and a parent or legal guardian has authorized such therapy in writing.”

SECTION 21. Section 3.55.200 of the Code of the City of Wichita, Kansas, is hereby created to read as follows: **“Transfer of license or permit.**

No massage therapy business license or massage therapist permit is transferable or assignable and such authority as a license or permit confers shall be conferred only on the licensee or permit holder and the location named therein. Additionally, if a massage therapy business or the business entity that holds the license of such a business changes either the name of the business entity or the name under which the entity is doing business (“dba” name), the existing license shall not transfer and a new license shall be required to continue to conduct a massage therapy business.”

SECTION 22. Section 3.55.210 of the Code of the City of Wichita, Kansas, is hereby created to read as follows: **“Applicability to existing businesses and providers of massage therapy.**

- (a) The provisions of this chapter shall be applicable to all existing massage therapy establishments or businesses currently participating in the activities described and regulated by this chapter, regardless of when established. All existing massage therapy businesses at the time of the passage of the ordinance codified in this chapter must submit an application for a license within 120 days of the effective date thereof.
- (b) The provisions of this chapter shall also apply to all persons who are currently engaged in the provision of massage therapy or are participating in the provision of activities described and regulated by this chapter. Such persons must submit an application for a massage therapist permit within 120 days of the effective date of the ordinance codified in this chapter.”

SECTION 23. Section 3.55.220 of the Code of the City of Wichita, Kansas, is hereby created to read as follows: **“Penalties.**

Any person who violates any of the provisions of this chapter within the corporate limits of the City of Wichita shall be deemed guilty of a misdemeanor and upon conviction hereof shall be punished by a fine of not more than two thousand five hundred dollars (\$2,500) or by imprisonment for not more than one (1) year or by both such fine and imprisonment, however, upon a conviction of an offense related to the conduct of a massage business, the court shall impose a mandatory minimum fine of no less than two hundred fifty dollars (\$250). Upon a conviction of an offense relating to the conduct of an individual massage therapist, the court shall impose a mandatory minimum fine of no less than one hundred dollars (\$100).”

SECTION 24. Section 3.55.230 of the Code of the City of Wichita, Kansas, is hereby created to read as follows: **“Invalidity of part.**

Should the court declare any section, clause or provision of this chapter to be unconstitutional such decision shall affect only such section, clause or provision so declared unconstitutional and shall not affect any other section, clause or provision of this chapter.”

SECTION 25. Section 3.55.240 of the Code of the City of Wichita, Kansas, is hereby created to read as follows: **“Injunctive relief or civil remedies.**

In addition to any other legal remedy provided in this ordinance, the operation of a massage therapy business without a license or the violation of this chapter is deemed a public nuisance and may be enjoined by the City.”

SECTION 26. The original of Chapter 3.56 of the Code of the City of Wichita, Kansas, is hereby repealed.

SECTION 27. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon adoption and publication in the official city newspaper.

PASSED by the governing body of the City of Wichita, Kansas, this 26th day of April,  
2016.

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Jeff Longwell, Mayor

Attest:

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Karen Sublett, City Clerk

Approved as to Form:

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Jennifer Magaña, City Attorney and  
Director of Law

# **Massage Ordinance (3.55)**

## **Reference Sheet**

### **Costs of License/Permit and Renewal Period**

Business License	Fee: \$200.00	Two (2) Year Renewal
Therapist Permit	Fee: \$75.00	Two (2) Year Renewal

### **Business License Requirements**

- Requires all Fees Paid
- Requires Name of Owner, Business Type, Location, Business Name
- Minimum of 18 Years of Age
- 5 Years Preceding, No Convictions under Felony/Moral Turpitude
- Not currently under Indictment Felony/Moral Turpitude
- Not a Registered Sex Offender
- No Suspension/Revocation of Similar License in Other Jurisdictions
- Must Comply with Building, Fire, Health and Zoning Laws
- All Financial Interest Persons Must Meet Same Criteria

### **Therapists Permit Requirements**

- Minimum of 18 Years of Age
- Lawful Citizen/U.S. Resident
- 5 Years Preceding, No Convictions under Felony/Moral Turpitude
- Not currently under Indictment Felony/Moral Turpitude
- Not a Registered Sex Offender
- No Suspension./Revocation of Similar License Other Jurisdictions
- Must meet one (1) of four (4) Training Standards
  - Satisfactorily Passed Massage and Bodywork Licensure Exam
  - Satisfactorily Passed National Certificate Therapeutic Massage and Bodywork Exam
  - Official Transcript Completing 500 Instructor Taught Hours
  - Proof 150 Hours Education Accredited Institution, 12 Hours Continuing Education Previous 5 years and Membership with a Nationally Recognized Massage Therapy Association

## **Licensing Existing Therapists (Grandfather Clause)**

Must meet one (1) of the following:

- 500 Hours Instruction Relating to Massage Therapy, School or Comparable Legal Authority Other State (Verified by Affidavit)
- 300 Hours Training In Massage Therapy Previous 3 Years
- Practiced a Minimum of 10 Hours Per Week During Previous five (5) Years (Verified by Affidavit and one Additional Documentation)
- Successfully Passed the Nationally Recognized Cert. Examination Provided by Nation Certification Board for Therapeutic Massage and Bodywork

**Massage therapy** shall NOT include diagnosis or treatment or use of procedures for which a license to practice medicine or surgery, chiropractic, or podiatry is required, and does not include the laying on of hands performed within the context of religious or spiritual beliefs. (Page 4 Definitions)

## **Grandfather/Documents Allowed for Existing Practitioners**

- Tax returns
- Gross Tax Receipts
- Business Advertising Literature
- Monthly Client Receipts.

## **Suspension/Revocation**

- Failure to Complete Information on Application
- Failure to Pay License Fee
- Failure to Comply with Applicable Building, Fire, Health, Zoning Laws
- Knowingly Falsified Information on Application/Renewal
- Conviction Or Indictment under Felony/Moral Turpitude
- Refused Entry For Inspection of Premises
- Violation of four (4) or more Offenses within 2 Year Period

## **Appeal Procedure**

- 10 Days Written Notice of Appeal to City Council
- City Clerk Schedules Hearing Before City Council, No later than 30 Days
- City Council May Approve the Denial, Suspension/Revocation, Overrule or Modify

- City Council's decision may be appealed to 18<sup>th</sup> Judicial District Court

### **Number of Industry Representatives Contacted**

- Approximately 60-70 therapists
- 50 Therapists represented at Massage Envy by Cassie Leach, Trisha Griggs, Desiree Palmer.

### **List of Industry Personnel Attending Meetings or contacted and represented by e-mail**

- Alicia Dale
- Barbara Koester (Vice-President of Kansas Association of Therapeutic Massage & Bodyworkers)
- Brock Ingmire (Government Relations Specialist Federation of State Massage Therapy Boards)
- Cassie Leach
- Debbie McCurdy
- Desiree Palmer
- Janet Inlow
- Janna Akins
- Jennifer Gillispie
- Kimberly Moore
- Kris Ann Smith
- Marla Hieger
- Sally Hacking
- Sharon Miklos
- Trisha Griggs
- Zella Newberry

### **Jurisdictions in Kansas with either license/permit requirements regulating Massage Businesses or Therapists**

- Topeka
- Unified Government of Wyandotte Co.
- Kansas City, Ks
- Junction City
- Salina
- Saline Co.
- Lawrence



- Olathe (new ordinance in November 2015)
- Lenexa (ordinance enacted in November 2014)
- Overland Park
- Garden City

### **Contacting Surrounding Agencies**

- Valley Center (new ordinance in December 2015)
- Augusta (no strip clubs or massage parlors)
- Andover (watching Wichita's process)
- Goddard (zoning too restrictive for any such businesses)
- Park City (currently has an ordinance)

### **Wichita Police Department Contacts**

Hassan Ramzah  
Deputy Chief  
Investigations Division  
Wichita Police Department  
316-268-4407  
[hramzah@wichita.gov](mailto:hramzah@wichita.gov)

Kevin Mears  
Captain  
Special Investigations Bureau  
Wichita Police Department  
316-268-4269  
[kmears@wichita.gov](mailto:kmears@wichita.gov)

City of Wichita  
City Council Meeting  
April 19, 2016

**TO:** Mayor and City Council

**SUBJECT:** Public Hearing and Request for Letter of Intent for Health Care Facilities Revenue Bonds (Kansas Masonic Home) (District IV)

**INITIATED BY:** Office of Urban Development

**AGENDA:** New Business

---

**Recommendation:** Close the public hearing, adopt the Resolution of Intent and authorize the necessary signatures.

**Background:** The Kansas Masonic Home is requesting City Council approval of a Letter of Intent for the issuance of Health Care Facilities Revenue Bonds in an amount not to exceed \$35,000,000. The proceeds of the proposed bonds will be used to retire the outstanding obligations used for improvements to the senior living facilities located at 402 S. Martinson. The company has requested a Letter of Intent through December 31, 2017.

**Analysis:** The Kansas Masonic Home (KMH) is a Kansas not-for-profit corporation formed in 1896 to serve orphans, widows and elders. It opened to the public in 1974 and currently offers services including assisted living, memory support and skilled nursing care. The company also has an indoor pool and spa, fitness center, beauty shop, a variety of dining options, housing and more. KMH has also developed a short-term rehabilitation center called Rapid Recovery.

KMH has recently completed a complete renovation of its entire campus to provide modern amenities. Part of the renovation included the creation of decentralized “homes” with a style such as Victorian, Colonial or Farmhouse, which featuring apartment style assisted living, memory care and long-term care. The improvements were funded through a construction loan.

An analysis of sources and uses of project funds is:

**Sources of Funds:**

Bond Proceeds	\$ 33,140,000.00
Company Contribution	<u>662,800.00</u>
Total Sources of Funds	\$ 33,802,800.00

**Uses of Funds:**

Refunding Escrow Deposit	\$ 30,000,000.00
Debt Service Reserve Fund	2,475,312.50
Costs of Issuance	1,325,600.00
Additional Proceeds	<u>1,887.50</u>
Total Uses of Funds	\$ 33,802,800.00

As a not-for-profit 501 (c)(3) corporation, KMH is eligible to receive tax-exempt revenue bond financing. The City’s bond counsel firm, Gilmore & Bell, P.C., will serve as bond counsel in the transaction. KMH will comply with the City’s requirements contained in the Letter of Intent.

**Financial Considerations:** KMH agrees to pay all costs of issuing the bonds and agrees to pay the City's \$2,500 annual industrial revenue bond administrative fee for the term of the bonds. B.C. Ziegler and Company has agreed to underwrite the bonds and reoffer them for sale to the public.

KMH is generally exempt from ad valorem taxes pursuant to Kansas law. Therefore no tax exemption is requested in conjunction with issuance of Health Care Facilities Revenue Bonds.

**Legal Considerations:** Bond documents needed for the issuance of the bonds will be prepared by bond counsel. The City's Law Department will review and approve the final form of bond documents prior to the issuance of any bonds. The public hearing held in conjunction with this item is in compliance with the Tax Equity and Fiscal Responsibility Act hearing requirement in the federal tax code for tax-exempt bonds.

**Recommendations/Actions:** It is recommended that the City Council close the public hearing, adopt the Resolution of Intent and authorize the necessary signatures.

**Attachment:** Letter of Intent Application, Resolution of Intent



KMH

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March 28, 2016

Mayor Longwell and Members of the City Council  
City of Wichita, Kansas  
c/o Department of Urban Development  
455 N. Main, 13<sup>th</sup> Floor  
Wichita, Kansas 67202

Re: Proposed City of Wichita, Kansas  
Health Care Facilities Revenue Bonds  
(Kansas Masonic Home)

The Kansas Masonic Home, a Kansas nonprofit corporation (the "Company") respectfully requests that the City of Wichita, Kansas (the "City") issue a Letter of Intent to issue its Health Care Facilities Revenue Bonds in one or more series in a principal amount of not to exceed \$35 million (the "Bonds") pursuant to K.S.A. 12-1740 *et seq.* (the "Act"), the proceeds of which shall be used to refinance outstanding obligations, the proceeds of which were used to finance or refinance the costs of renovations and improvements to the skilled nursing and assisted living facilities at The Kansas Masonic Home, which is within the corporate limits of the City (the "Project"). The following information is submitted in support of the Company's request:

1. Names and addresses of all persons who would be obligated as either tenant or guarantor on the bond obligations:

Kansas Masonic Home, 402 S. Martinson, Wichita, Kansas, 67213

2. Names and addresses of the principal officers and directors of the Company:

See Attachment A.

3. A general description of the nature of the business of the Company and a list of the principal competition in the local market:

Kansas Masonic Home is a continuing care retirement community providing assisted living, long term care, skilled nursing and memory care services. Principal competition includes Larksfield Place, Wichita Presbyterian Manor, Oxford Grand.

4. A general description of the proposed project or improvements:

Campus wide renovation to create a more homelike environment for residents.

5. The specific location of the proposed project (not a legal description):

Kansas Masonic Home campus at 402 S. Martinson.

6. A statement of the projected benefits to the City:

Kansas Masonic Home has served impoverished and vulnerable elders in the Wichita community for 120 years. This renovation allow the organization to continue this mission.

7. The dollar amount of the Bonds being requested (not to exceed):

\$35 million

8. A detailed breakdown of the proposed costs including an estimate of underwriting fees and other miscellaneous expenses:

See Attachment B

9. The name and address of the proposed underwriters or purchasers of the Bonds and their counsel, if any, or an explanation as to how and when the underwriters or purchaser will be selected: Underwriting services provided by:

Will R. Carney  
BC Ziegler and Company  
200 S Wacker Dr, Ste 2000  
Chicago, IL 60606  
312-263-0110  
wcarney@ziegler.com

10. The name and address of the Company's counsel:

Hinkle Law Firm, 301 North Main Street, Suite 2000, Wichita, KS, 67202

11. Agreement to pay for services of Bond Counsel.

The Company agrees to pay for the services of Gilmore & Bell, P.C. Wichita, Kansas, the

regardless of whether the Bonds are ultimately approved or issued.

12. A statement relative to ad valorem taxes.

The Company does not request an exemption from ad valorem taxes.

13. Administrative Service Fee Agreement.

The Company will make payments to the City under an administrative service fee agreement to be entered into in connection with the issuance of the Bonds in the amount of \$2,500 per year commencing one year after the issuance of the Bonds.

14. A brief statement relative to the effects of the proposed project on the ambient air quality of the City.

The project will have no effects on the ambient air quality of the City or Sedgwick County, nor is it anticipated there will be any other anticipated adverse environmental effects. The Company agrees to comply with the City's policies and requirements relating to environmental matters.

15. A brief statement with respect to equal employment opportunities:

The Company will comply with all policies of the City with respect to equal employment opportunity.

16. Any other information which would be helpful or which is desired to be given to help determine the propriety of the City issuing the Bonds.

The following exhibits are included as additional information:

- (A) Audited financial statements of the Company for the fiscal year(s) ended 2014. Attachment C
- (B) Feasibility study- to be provided by Dixon Hughes Goodman
- (C) Proforma financial statements- to be provided by Dixon Hughes Goodman
- (D) History and experience of principals of Company. Attachment D
- (E) Area map or project plan. Attachment E
- (F) Commitment or letter of intent from underwriter(s)/purchaser. To be provided by BC Ziegler and Company. Attachment F

To permit the Company to finalize the proposed plan of finance, it is requested at this time that the City Council authorize the Mayor to execute a Letter of Intent for and on behalf of the City whereby the City indicates its intent to issue its Health Care Facilities Revenue Bonds in a par


JLN600809.70413VRB APPLICATION FORM (03-09-16)

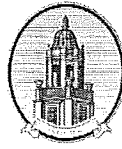
whereby the City indicates its intent to issue its Health Care Facilities Revenue Bonds in a par amount not to exceed \$35 million for the purposes described herein. The Company respectfully requests that such Letter of Intent be valid for a period of six months.

The Company is aware that such a Letter of Intent is only an indication of the intent of the City to issue the proposed Bonds and that such Letter of Intent is subject in all respects to the City Council's final approval of the terms and provisions of the financing documents. However, upon issuance of such Letter of Intent, the Company is prepared to proceed in reliance thereon. Please contact the undersigned if you have any questions or require additional information.

Respectively Submitted,

THE KANSAS MASONIC HOME

  
Name: *Matthew Bogner*  
Title: *CEO*



KMH

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**ATTACHMENT A**

**KANSAS MASONIC HOME BOARD OF DIRECTORS**

**2016-2017**

T. Michael Fegan, PGM (Debbie)  
President  
3310 N. Chambers  
Wichita, KS, 67205

Jim Ralston (Debra)  
Vice President  
13110 SW 57<sup>th</sup>  
Andover, KS 67002

Edith Tice  
6020 E. 8<sup>th</sup> St. North  
Wichita, KS, 67208

Dennis Johnson (Denise)  
PO Box 1423  
Hays, KS 67601-8423

Wayne Rector (Melody)  
8018 Parkview Avenue  
Kansas City, KS 66109-2268

Warren R. Rensner (Theresa)  
4009 Cedar Lake Road  
Goddard, KS 67052-9245

Ron Capps (Bonnie)  
2121 South Edwards (w)  
Wichita, KS 67213  
1710 West Driftwood Court (h)  
Wichita, KS 67204-2396

Mary Hayselden  
6014 W Richards Dr  
Shawnee Kansas 67530

D.R. "Dale" Morrow  
P.O. Box 105

Union Lodge #7 &  
Bester G. Brown #433  
Melita Chapter #116  
President, Fegan Enterprises  
Real Estate Investments

Albert Pike Lodge #303  
Wichita Scottish Rite  
Wichita York Rite  
Midian Shrine Center  
Branch Manager, APAC-KS, Inc.

Hays Lodge #195  
Hays Chapter #228  
Iris Shrine Temple  
Farmer / Rancher

Wyandotte Lodge #3  
NEKS Scottish Rite  
Abdallah Shrine  
Retired General Motors

Albert Pike #303  
Midian Shine, Past Potentate  
Owner, Dental Practice

Albert Pike #303  
Midian Shrine, Past Potentate  
Owner, Capps Manufacturing

Associate Grand Conductress

785-762-2345 (h)  
785-238-8640 (w)  
785-238-8385 (w fax)  
785-226-2629 (c)  
E-Mail: [tmike7@cox.net](mailto:tmike7@cox.net)

316-778-1953 (h)  
316-524-5200 (w)  
316-644-2884 (c)  
E-Mail: [ljralston@apac.com](mailto:ljralston@apac.com)

316-524-0995 (c)  
[netice1997@cox.net](mailto:netice1997@cox.net)

785-628-3355 (h)  
785-639-2449 (c)  
[johnsondennis@dishmail.net](mailto:johnsondennis@dishmail.net)

913-669-2473 (c)  
E-Mail: [waynerector1@gmail.com](mailto:waynerector1@gmail.com)

794-3724 (h)  
648-3563 (c)  
683-6732 or 941-5997 (w)  
[rensnerdds@dental.kscoxmail.com](mailto:rensnerdds@dental.kscoxmail.com)

945-8575 (h)  
250-0191 (c)  
942-9351 (w)  
E-Mail: [ron.capps@cappsmfg.com](mailto:ron.capps@cappsmfg.com)

E-Mail: [polarbear6014@gmail.com](mailto:polarbear6014@gmail.com)  
913-485-6952

620-262-6671  
E-Mail: [dalemorrow6@gmail.com](mailto:dalemorrow6@gmail.com)



Udall, Ks. 67146

Judge Thomas C. Raum (Doris)  
Secretary/Treasurer Emeritus  
2455 N. Woodlawn  
Apartment 244  
Wichita, KS 67220

Albert Pike #303  
Wichita Scottish Rite

Retired Judge

316-838-2740 (h)  
E-Mail: [tcraft@sbglobal.net](mailto:tcraft@sbglobal.net)

Key Personnel

Matthew Bogner, CEO  
1920 Depot  
Newton, KS 67114

Roger Henre, CFO  
3310 N Pepper Ridge  
Wichita, KS 67205

Larry Nanny, Jr., COO  
10026 E Bayley Ct.  
Wichita, KS 67207

## Attachment B

### SOURCES AND USES OF FUNDS

City of Wichita, KS  
Revenue Refunding Bonds, Series 2016  
(KMH)

PRELIMINARY BOND MODEL

Prepared: January 15, 2016

#### Sources:

Bond Proceeds:	
Par Amount	33,140,000.00
Other Sources of Funds:	
Taxable Bonds/Equity Contribution	662,800.00
	<b>33,802,800.00</b>

#### Uses:

Refunding Escrow Deposits:	
Cash Deposit	30,000,000.00
Other Fund Deposits:	
Debt Service Reserve Fund	2,475,312.50
Delivery Date Expenses:	
Cost of Issuance	1,325,600.00
Other Uses of Funds:	
Additional Proceeds	1,887.50
	<b>33,802,800.00</b>

## **Attachment C**

# **Kansas Masonic Home, Inc.**

## **Independent Auditor's Report and Consolidated Financial Statements**

**December 31, 2014 and 2013**

# Kansas Masonic Home, Inc.

December 31, 2014 and 2013

## Contents

Independent Auditor's Report.....	1
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### Consolidated Financial Statements

Balance Sheets.....	3
Statements of Operations.....	4
Statements of Changes in Net Assets .....	5
Statements of Cash Flows .....	6
Notes to Financial Statements .....	7

## Independent Auditor's Report

Board of Directors  
Kansas Masonic Home, Inc.  
Wichita, Kansas

We have audited the accompanying consolidated financial statements of Kansas Masonic Home, Inc., which comprise the consolidated balance sheets as of December 31, 2014 and 2013, and the related consolidated statements of operations, changes in net assets and cash flows for the years then ended, and the related notes to the consolidated financial statements.

### *Management's Responsibility for the Financial Statements*

Management is responsible for the preparation and fair presentation of these consolidated financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation and maintenance of internal control relevant to the preparation and fair presentation of consolidated financial statements that are free from material misstatement, whether due to fraud or error.

### *Auditor's Responsibility*

Our responsibility is to express an opinion on these consolidated financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the consolidated financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the consolidated financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the consolidated financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Board of Directors  
Kansas Masonic Home, Inc.  
Page 2

*Opinion*

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of Kansas Masonic Home, Inc. as of December 31, 2014 and 2013, and the results of its operations, the changes in its net assets and its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

*BKD, LLP*

Wichita, Kansas  
June 15, 2015

**Kansas Masonic Home, Inc.**  
**Consolidated Balance Sheets**  
**December 31, 2014 and 2013**

**Assets**

	<u>2014</u>	<u>2013</u>
<b>Current Assets</b>		
Cash and cash equivalents	\$ 95,766	\$ 260,848
Resident accounts receivable, net of allowance; 2014 - \$1,849,000, 2013 - \$564,000	1,461,330	2,593,611
Other receivable	-	44,071
Prepaid expenses and other	<u>90,347</u>	<u>92,702</u>
Total current assets	<u>1,647,443</u>	<u>2,991,232</u>
<b>Assets Limited As To Use, Net of Current Portion</b>	<u>131,113</u>	<u>131,113</u>
<b>Investments</b>	<u>7,112,554</u>	<u>7,907,069</u>
<b>Property and Equipment, At Cost</b>		
Land and land improvements	2,890,761	2,890,761
Buildings	25,674,265	25,671,265
Equipment	1,809,754	1,809,754
Construction in progress	<u>16,035,644</u>	<u>5,283,663</u>
	46,410,424	35,655,443
Less accumulated depreciation	<u>12,544,034</u>	<u>11,615,744</u>
	<u>33,866,390</u>	<u>24,039,699</u>
<b>Other Assets</b>		
Beneficial interest in perpetual trusts	<u>2,412,867</u>	<u>2,443,277</u>
Total assets	<u><u>\$ 45,170,367</u></u>	<u><u>\$ 37,512,390</u></u>



## Liabilities and Net Assets

	2014	2013
<b>Current Liabilities</b>		
Current maturities of long-term debt	\$ 26,285,155	\$ 16,000,000
Line of credit	-	200,000
Accounts payable	793,565	216,348
Accrued wages and related expenses	439,301	435,088
Accrued expenses	155,815	185,439
Resident deposits	26,040	26,040
Due to grantor	7,705	10,492
Total current liabilities	27,707,581	17,073,407
<b>Long-term Debt</b>	-	474,195
Total liabilities	27,707,581	17,547,602
<b>Net Assets</b>		
Unrestricted	15,005,935	17,478,640
Temporarily restricted	43,984	42,871
Permanently restricted	2,412,867	2,443,277
Total net assets	17,462,786	19,964,788
Total liabilities and net assets	\$ 45,170,367	\$ 37,512,390

**Kansas Masonic Home, Inc.**  
**Consolidated Statements of Operations**  
**Years Ended December 31, 2014 and 2013**

	<u>2014</u>	<u>2013</u>
<b>Unrestricted Revenues, Gains and Other Support</b>		
Net resident service revenue	\$ 10,740,525	\$ 11,915,242
Other	<u>79,295</u>	<u>75,456</u>
Total unrestricted revenues, gains and other support	<u>10,819,820</u>	<u>11,990,698</u>
<b>Expenses and Losses</b>		
Salaries and wages	6,310,100	6,272,811
Employee benefits	1,343,110	1,263,929
Consulting and contract services	1,350,850	1,140,782
Utilities	761,537	692,087
Food	798,579	836,458
Insurance	189,418	173,475
Repairs and maintenance	160,737	174,607
Supplies and other	1,366,522	1,646,087
Interest	5,007	5,788
Depreciation and amortization	928,290	740,867
Provision for uncollectible accounts	<u>1,700,000</u>	<u>-</u>
Total expenses	<u>14,914,150</u>	<u>12,946,891</u>
<b>Operating Loss</b>	<u>(4,094,330)</u>	<u>(956,193)</u>
<b>Other Income</b>		
Contributions	884,228	378,961
Investment return	495,702	1,060,376
Oil and gas royalties	<u>241,695</u>	<u>165,884</u>
Total other income	<u>1,621,625</u>	<u>1,605,221</u>
<b>Excess (Deficiency) of Revenues Over Expenses</b>	<u><u>\$ (2,472,705)</u></u>	<u><u>\$ 649,028</u></u>

**Kansas Masonic Home, Inc.**  
**Consolidated Statements of Changes in Net Assets**  
**Years Ended December 31, 2014 and 2013**

	<u>2014</u>	<u>2013</u>
<b>Unrestricted Net Assets</b>		
Excess (deficiency) of revenues over expenses	\$ (2,472,705)	\$ 649,028
Increase (decrease) in unrestricted net assets	<u>(2,472,705)</u>	<u>649,028</u>
<b>Temporarily Restricted Net Assets</b>		
Contributions restricted for specific purposes	<u>1,113</u>	<u>15,836</u>
Increase in temporarily restricted net assets	<u>1,113</u>	<u>15,836</u>
<b>Permanently Restricted Net Assets</b>		
Change in beneficial interest in perpetual trusts	<u>(30,410)</u>	<u>134,030</u>
Increase in permanently restricted net assets	<u>(30,410)</u>	<u>134,030</u>
<b>Change in Net Assets</b>	(2,502,002)	798,894
<b>Net Assets, Beginning of Year</b>	<u>19,964,788</u>	<u>19,165,894</u>
<b>Net Assets, End of Year</b>	<u><u>\$ 17,462,786</u></u>	<u><u>\$ 19,964,788</u></u>

**Kansas Masonic Home, Inc.**  
**Consolidated Statements of Cash Flows**  
**Years Ended December 31, 2014 and 2013**

	<u>2014</u>	<u>2013</u>
<b>Operating Activities</b>		
Change in net assets	\$ (2,502,002)	\$ 798,894
Items not requiring (providing) operating cash flow		
Depreciation and amortization	928,290	740,867
Realized and unrealized gains on investments	(32,851)	(653,663)
Change in beneficial interest in perpetual trusts	30,410	(134,030)
Provision for uncollectible accounts	1,700,000	-
Changes in		
Resident accounts receivable	(567,719)	(899,021)
Accounts payable and accrued expenses	78,008	123,055
Other current assets	46,426	(54,670)
Net cash used in operating activities	<u>(319,438)</u>	<u>(78,568)</u>
<b>Investing Activities</b>		
Purchase of investments	(7,215,791)	(14,027,664)
Proceeds from disposition of investments	8,043,157	13,952,238
Purchase of property and equipment	<u>(10,283,970)</u>	<u>(7,261,663)</u>
Net cash used in investing activities	<u>(9,456,604)</u>	<u>(7,337,089)</u>
<b>Financing Activities</b>		
Net change in line of credit	(200,000)	200,000
Proceeds from draw on bridge loan	<u>9,810,960</u>	<u>6,584,328</u>
Net cash provided by financing activities	<u>9,610,960</u>	<u>6,784,328</u>
<b>Decrease in Cash and Cash Equivalents</b>	(165,082)	(631,329)
<b>Cash and Cash Equivalents, Beginning of Year</b>	<u>260,848</u>	<u>892,177</u>
<b>Cash and Cash Equivalents, End of Year</b>	<u>\$ 95,766</u>	<u>\$ 260,848</u>
<b>Supplemental Cash Flows Information</b>		
Interest paid	\$ 661,964	\$ 376,016
Property and equipment purchases included in accounts payable	\$ 488,596	\$ 17,585

**Kansas Masonic Home, Inc.**  
**Notes to Consolidated Financial Statements**  
**December 31, 2014 and 2013**

**Note 1: Nature of Operations and Summary of Significant Accounting Policies**

***Nature of Operations***

Kansas Masonic Home, Inc. (the "Corporation" or the "Home") consists of a 109-bed adult care home and a 118-bed assisted living facility in Wichita, Kansas. The Home earns revenues by providing residential care nursing services, independent living and assisted living services to its residents and those in central Wichita.

***Principles of Consolidation***

The consolidated financial statements include the accounts of the Home and the Kansas Masonic Home Endowment Association, Inc. (the Endowment) due to their relationships, structures, purposes and shared economic interests. The operations of the Home's facilities and the Endowment are collectively referred to as the Corporation. All significant intercompany accounts and transactions have been eliminated in consolidation.

***Use of Estimates***

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

***Cash and Cash Equivalents***

The Corporation considers all liquid investments, other than those limited as to use, with original maturities of three months or less to be cash equivalents. At December 31, 2014 and 2013, cash equivalents consisted primarily of money market accounts with brokers.

At December 31, 2014, the Corporation's cash accounts exceeded federally insured limits by approximately \$722,000.

***Investments and Investment Return***

Investments in equity securities having a readily determinable fair value and in all debt securities are carried at fair value. Investment return includes dividend, interest and other investment income and realized and unrealized gains and losses on investments carried at fair value.

Investment return that is initially restricted by donor stipulation and for which the restriction will be satisfied in the same year is included in unrestricted net assets. Other investment return is reflected in the statements of operations and changes in net assets as unrestricted, temporarily restricted or permanently restricted based upon the existence and nature of any donor or legally imposed restrictions.

**Kansas Masonic Home, Inc.**  
**Notes to Consolidated Financial Statements**  
**December 31, 2014 and 2013**

***Assets Limited As To Use***

Assets limited as to use include assets set aside by the Board of Directors for retirement obligations over which the Board retains control and may at its discretion subsequently use for other purposes. Amounts required to meet current liabilities of the Corporation are included in current assets.

***Resident Accounts Receivable***

The Corporation reports resident accounts receivable for services rendered at net realizable amounts from third-party payers, patients and others. The Corporation provides an allowance for doubtful accounts based upon a review of outstanding receivables, historical collection information and existing economic conditions. As a service to the resident, the Corporation bills third-party payers directly and bills the resident when the resident's liability is determined. Resident accounts receivable are due in full when billed. Accounts are considered delinquent and subsequently written off as bad debts based on individual credit evaluation and specific circumstances of the account.

***Property and Equipment***

Property and equipment acquisitions are recorded at cost and are depreciated using the straight-line method over the estimated useful life of each asset. Assets under capital lease obligations are depreciated over the shorter of the lease term or their respective estimated useful lives.

Donations of property and equipment are reported at fair value as an increase in unrestricted net assets unless use of the assets is restricted by the donor. Monetary gifts that must be used to acquire property and equipment are reported as restricted support. The expiration of such restrictions is reported as an increase in unrestricted net assets when the donated asset is placed in service.

The Corporation capitalizes interest costs as a component of construction in progress, based on the weighted-average rates paid for long-term borrowing. Total interest incurred was:

	<u>2014</u>	<u>2013</u>
Interest costs capitalized	\$ 617,564	\$ 385,844
Interest costs charged to expense	<u>5,007</u>	<u>5,788</u>
Total interest incurred	<u>\$ 622,571</u>	<u>\$ 391,632</u>

***Temporarily and Permanently Restricted Net Assets***

Temporarily restricted net assets are those whose use by the Corporation has been limited by donors to a specific time period or purpose. Permanently restricted net assets have been restricted by donors to be maintained by a third party for the Corporation's benefit in perpetuity.

**Kansas Masonic Home, Inc.**  
**Notes to Consolidated Financial Statements**  
**December 31, 2014 and 2013**

***Net Resident Service Revenue***

The Corporation has agreements with third-party payers that provide for payments to the Corporation at amounts different from its established rates. Net resident service revenue is reported at the estimated net realizable amounts from residents, third-party payers and others for services rendered.

***Contributions***

Unconditional gifts expected to be collected within one year are reported at their net realizable value. Unconditional gifts expected to be collected in future years are initially reported at fair value determined using the discounted present value of estimated future cash flows technique. The resulting discount is amortized using the level-yield method and is reported as contribution revenue.

Gifts received with donor stipulations are reported as either temporarily or permanently restricted support. When a donor restriction expires, that is, when a time restriction ends or purpose restriction is accomplished, temporarily restricted net assets are reclassified and reported as an increase in unrestricted net assets. Donor-restricted contributions whose restrictions are met within the same year as received are reported as unrestricted contributions. Conditional contributions are reported as liabilities until the condition is eliminated or the contributed assets are returned to the donor.

***Income Taxes***

The Home and Endowment have each been recognized as exempt from income taxes under Section 501 of the Internal Revenue Code and a similar provision of state law. However, the Home and Endowment are subject to federal income tax on any unrelated business taxable income.

The Home and Endowment file tax returns in the U.S. federal jurisdiction. With a few exceptions, the Home and Endowment are no longer subject to federal and state tax examinations by tax authorities for years before 2011.

***Subsequent Events***

Subsequent events have been evaluated through the date of the Independent Auditor's Report, which is the date the financial statements were available to be issued.

**Kansas Masonic Home, Inc.**  
**Notes to Consolidated Financial Statements**  
**December 31, 2014 and 2013**

**Note 2: Net Resident Service Revenue**

The Corporation has agreements with third-party payers that provide for payments to the Corporation at amounts different from its established rates. These payment arrangements include:

*Medicare.* Skilled nursing services rendered to Medicare program beneficiaries are paid at prospectively determined rates.

*Medicaid.* Services rendered to Medicaid program beneficiaries are reimbursed under a cost-based prospective reimbursement methodology. The Home is reimbursed at a prospective rate, with annual cost reports submitted to the Medicaid program. Rates are computed each calendar quarter using an average of the 2010, 2011 and 2012 cost reports and changes in the Medicaid resident case mix index. The Medicaid cost reports are subject to audit by the state and adjustments to rates can be made retroactively.

Approximately 64% and 57% of net resident service revenue is from participation in the Medicare and the state-sponsored Medicaid programs for the years ended December 31, 2014 and 2013, respectively.

Laws and regulations governing the Medicare and Medicaid programs are complex and subject to interpretation and change. As a result, it is reasonably possible that recorded estimates will change materially in the near term.

**Note 3: Concentration of Credit Risk**

The Corporation grants credit without collateral to its residents, most of whom are insured under third-party payer agreements. The mix of receivables from residents and third-party payers at December 31, 2014 and 2013, was:

	<u>2014</u>	<u>2013</u>
Medicare	62%	73%
Medicaid	31%	23%
Residents	7%	4%
	<u>100%</u>	<u>100%</u>



**Kansas Masonic Home, Inc.**  
**Notes to Consolidated Financial Statements**  
**December 31, 2014 and 2013**

**Note 4: Investments and Investment Return**

Assets limited as to use include:

	<u>2014</u>	<u>2013</u>
Board designated for retirement obligation:		
Mutual funds	\$ 131,113	\$ 131,113
Less portion required for obligations classified as current	<u>-</u>	<u>-</u>
	<u>\$ 131,113</u>	<u>\$ 131,113</u>

Investments at December 31 include:

	<u>2014</u>	<u>2013</u>
Trading		
Mutual funds		
Money market	\$ 2,179,036	\$ 103,581
Fixed income	-	2,679,275
Equity	3,495,401	3,809,187
Real estate investment trust	1,438,117	1,314,405
Taxable bonds	<u>-</u>	<u>621</u>
	<u>\$ 7,112,554</u>	<u>\$ 7,907,069</u>

Total investment return is comprised of the following:

	<u>2014</u>	<u>2013</u>
Interest and dividend income	\$ 492,676	\$ 444,382
Realized gains on investments	101,880	423,176
Unrealized gains (losses) on investments	(69,029)	230,487
Investment expenses	<u>(29,825)</u>	<u>(37,669)</u>
	<u>\$ 495,702</u>	<u>\$ 1,060,376</u>

**Kansas Masonic Home, Inc.**  
**Notes to Consolidated Financial Statements**  
**December 31, 2014 and 2013**

***Alternative Investments***

As permitted by Topic 825, the Corporation has elected to measure alternative investments at fair value. Management has elected the fair value option for these items because it more accurately reflects the portfolio returns and financial position of the Corporation. Changes in fair value for items for which the fair value option has been elected are reported in investment return in the accompanying statements of operations.

The fair value of alternative investments has been estimated using the net asset value per share of the investments. Alternative investments held at December 31, 2014 and 2013, consist of a real estate investment trust. The trust invests primarily in U.S. residential real estate. This investment cannot be redeemed with the trust, but can be sold at any time to other third parties. Distributions from the trust will be made as the underlying investments of the trust are liquidated.

**Note 5: Beneficial Interest in Perpetual Trusts**

The Corporation is an income beneficiary of several perpetual trusts controlled by unrelated third-party trustees. The beneficial interests in the assets of these trusts are included in the Corporation's financial statements as permanently restricted net assets. Income is distributed in accordance with the trust documents and is included in investment return. The estimated value of the expected future cash flows is \$2,412,867 and \$2,443,277, which represents the fair value of the trust assets at December 31, 2014 and 2013, respectively. Trust income distributed to the Corporation for the years ended December 31, 2014 and 2013, was \$94,017 and \$94,404, respectively.

**Note 6: Lines of Credit**

The Corporation has a revolving bank line of credit in the amount of \$250,000 expiring October 9, 2015, respectively. At December 31, 2014 and 2013, total borrowing against these lines was \$0 and \$200,000, respectively. The lines are collateralized by investments. Interest varies with the bank's prime rate, which was 4.0% at both December 31, 2014 and 2013, and is payable monthly.

**Note 7: Long-term Debt**

A construction loan was obtained in 2012 to retire the remaining 1993 and 1997 bond obligations and to finance a current construction project. The construction loan agreement permits the Corporation to draw up to \$16,000,000. These funds are payable in full along with any accrued interest on July 3, 2015. Additionally, a second construction loan was obtained in 2013 to finance the second phase of the continuing project. The second construction loan agreement permits the Corporation to draw up to \$13,744,195. These funds are payable in full along with accrued interest on September 30, 2015. At December 31, 2014, the Corporation had drawn \$16,000,000 and \$10,285,155 on the respective loans. No new loan agreement or extensions have been executed as of the date of the auditor's report; the Corporation is in the process of extending the loan agreements and believes this will occur in the near future in the ordinary course of business.

**Kansas Masonic Home, Inc.**  
**Notes to Consolidated Financial Statements**  
**December 31, 2014 and 2013**

At December 31, 2014 and 2013, long-term debt consisted of the following:

	<u>2014</u>	<u>2013</u>
Construction bridge loan with INTRUST Bank, N.A.; subject to maximum draw of \$13,744,195; interest rate of 2.85%, due September 30, 2015	\$ 10,285,155	\$ 474,195
Construction bridge loan with INTRUST Bank, N.A.; subject to maximum draw of \$16,000,000; interest rate of 2.85%, due July 3, 2015	16,000,000	16,000,000
	<u>26,285,155</u>	<u>16,474,195</u>
Less current maturities	<u>26,285,155</u>	<u>16,000,000</u>
	<u>\$ -</u>	<u>\$ 474,195</u>

Aggregate annual maturities of long-term debt at December 31, 2014, are:

2015	<u>\$ 26,285,155</u>
------	----------------------

**Note 8: Temporarily and Permanently Restricted Net Assets**

Temporarily restricted net assets are available for the following purpose or periods:

	<u>2014</u>	<u>2013</u>
For specific purposes	<u>\$ 43,984</u>	<u>\$ 42,871</u>

Permanently restricted net assets are restricted to:

	<u>2014</u>	<u>2013</u>
Beneficial interest in perpetual trusts, the income is unrestricted	<u>\$ 2,412,867</u>	<u>\$ 2,443,277</u>

**Kansas Masonic Home, Inc.**  
**Notes to Consolidated Financial Statements**  
**December 31, 2014 and 2013**

**Note 9: Functional Expenses**

The Corporation provides health care services primarily to residents within its geographic location including nursing care, assisted and independent living accommodations. Expenses related to providing these services are as follows:

	<u>2014</u>	<u>2013</u>
Health care services	\$ 13,496,377	\$ 11,244,877
General and administrative	1,298,910	1,595,716
Fund raising	<u>118,863</u>	<u>106,298</u>
	<u>\$ 14,914,150</u>	<u>\$ 12,946,891</u>

**Note 10: Profit-Sharing Plan**

The Corporation has a 401(k) profit-sharing plan covering substantially all employees. The Board of Directors annually determines the amount, if any, of the Corporation's contributions to the plan. Profit-sharing expense was \$61,062 and \$68,904 for 2014 and 2013, respectively.

**Note 11: Disclosures About Fair Value of Assets and Liabilities**

Fair value is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. Fair value measurements must maximize the use of observable inputs and minimize the use of unobservable inputs. There is a hierarchy of three levels of inputs that may be used to measure fair value:

- Level 1** Quoted prices in active markets for identical assets or liabilities
- Level 2** Observable inputs other than Level 1 prices, such as quoted prices for similar assets or liabilities; quoted prices in markets that are not active; or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the assets or liabilities
- Level 3** Unobservable inputs supported by little or no market activity and are significant to the fair value of the assets or liabilities

**Kansas Masonic Home, Inc.**  
**Notes to Consolidated Financial Statements**  
**December 31, 2014 and 2013**

***Recurring Measurements***

The following table presents the fair value measurements of assets and liabilities recognized in the accompanying balance sheets measured at fair value on a recurring basis and the level within the fair value hierarchy in which the fair value measurements fall at December 31, 2014 and 2013:

		2014		
		Fair Value Measurements Using		
		Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
	Fair Value			
Assets limited as to use:				
Mutual funds	\$ 131,113	\$ 131,113	\$ -	\$ -
Investments:				
Mutual funds				
Money market	2,179,036	2,179,036	-	-
Equity	3,495,401	3,495,401	-	-
Real estate investment trust	1,438,117	986,545	-	451,572
Beneficial interest in perpetual trusts	2,412,867	-	-	2,412,867
		2013		
		Fair Value Measurements Using		
		Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
	Fair Value			
Assets limited as to use:				
Mutual funds	\$ 131,113	\$ 131,113	\$ -	\$ -
Investments:				
Mutual funds				
Money market	103,581	103,581	-	-
Fixed income	2,679,275	2,679,275	-	-
Equity	3,809,187	3,809,187	-	-
Real estate investment trust	1,314,405	-	-	1,314,405
Taxable bonds	621	621	-	-
Beneficial interest in perpetual trusts	2,443,277	-	-	2,443,277

**Kansas Masonic Home, Inc.**  
**Notes to Consolidated Financial Statements**  
**December 31, 2014 and 2013**

Following is a description of the valuation methodologies and inputs used for assets and liabilities measured at fair value on a recurring basis and recognized in the accompanying balance sheets, as well as the general classification of such assets and liabilities pursuant to the valuation hierarchy. There have been no significant changes in the valuation techniques during the year ended December 31, 2014. For assets classified within Level 3 of the fair value hierarchy, the process used to develop the reported fair value is described below.

***Investments***

Where quoted market prices are available in an active market, securities are classified within Level 1 of the valuation hierarchy. If quoted market prices are not available, then fair values are estimated by using quoted prices of securities with similar characteristics or independent asset pricing services and pricing models, the inputs of which are market-based or independently sourced market parameters, including, but not limited to, yield curves, interest rates, volatilities, prepayments, defaults, cumulative loss projections and cash flows. Such securities are classified in Level 2 of the valuation hierarchy. In certain cases where Level 1 or Level 2 inputs are not available, securities are classified within Level 3 of the hierarchy.

The value of certain investments, classified as alternative investments, is determined using net asset value (or its equivalent) as a practical expedient. Investments for which the Corporation expects to have the ability to redeem its investments with the investee within 12 months after the reporting date are categorized as Level 2. Investments for which the Corporation does not expect to be able to redeem its investments with the investee within 12 months after the reporting date are categorized as Level 3.

Fair value determinations for Level 3 measurements of securities are the responsibility of management. Management obtains information from the Corporation's investment management company on at least an annual basis. Management challenges the reasonableness of the assumptions used and reviews the methodology to ensure the estimated fair value complies with accounting standards generally accepted in the United States.

***Beneficial Interest in Perpetual Trusts***

Fair value is estimated at the present value of the future distributions expected to be received over the term of the agreement. Due to the nature of the valuation inputs, the interest is classified within Level 3 of the hierarchy.

Fair value determinations for Level 3 measurements of securities are the responsibility of management. Management obtains information from the foundation where the Corporation's assets are held in a perpetual trust on at least an annual basis. Management challenges the reasonableness of the assumptions used and reviews the methodology to ensure the estimated fair value complies with accounting standards generally accepted in the United States.

**Kansas Masonic Home, Inc.**  
**Notes to Consolidated Financial Statements**  
**December 31, 2014 and 2013**

The following is a reconciliation of the beginning and ending balances of recurring fair value measurements recognized in the accompanying balance sheets using significant unobservable (Level 3) inputs:

	<b>Beneficial Interest in Perpetual Trusts</b>	<b>Real Estate Investment Trust</b>
Balance, January 1, 2013	\$ 2,309,247	\$ 383,960
Purchases	-	1,000,050
Total realized and unrealized gains and losses included in change in net assets	170,434	(69,605)
Distributions included in investment return	(36,404)	-
Balance, December 31, 2013	2,443,277	1,314,405
Total realized and unrealized gains and losses included in change in net assets	991	123,712
Distributions included in investment return	(31,401)	-
Balance, December 31, 2014	<u>\$ 2,412,867</u>	<u>\$ 1,438,117</u>

***Unobservable (Level 3) Inputs***

The following table presents quantitative information about unobservable inputs used in recurring Level 3 fair value measurements.

	<b>Fair Value at 12/31/14</b>	<b>Valuation Technique</b>	<b>Unobservable Inputs</b>	<b>Range (Weighted Average)</b>
Investment in nonpublicly traded real estate investment trust	\$ 451,572	NAV as practical expediant	NAV as practical expediant	None
Investment in beneficial interest in perpetual trust	\$ 2,412,867	NAV as practical expediant	NAV as practical expediant	None

**Kansas Masonic Home, Inc.**  
**Notes to Consolidated Financial Statements**  
**December 31, 2014 and 2013**

**Note 12: Significant Estimates and Concentrations**

Accounting principles generally accepted in the United States of America require disclosure of certain significant estimates and current vulnerabilities due to certain concentrations. Those matters include the following:

***Contribution Revenue and Oil and Gas Royalties***

The Corporation places significant reliance on contributions and oil and gas royalties to produce revenues in excess of expenses. Should contributions or revenues from oil and gas royalties decline from their current level, operations, investments and net assets could be negatively impacted.

***Self-insurance***

Workers' compensation coverage is provided through a fund managed by the Kansas Association of Homes for the Aging. The workers' compensation premiums are subject to retrospective adjustment based upon overall performance of the fund. Management believes adequate reserves are in place within the plan to cover claims incurred but not reported and no additional amounts have been accrued related to claims for this plan. Events could occur that would cause the estimate of ultimate loss to differ materially in the near term.

**Note 13: Contingency**

***Litigation***

In the normal course of business, the Home is, from time to time, subject to allegations that may or do result in litigation. The Home evaluates such allegations by conducting investigations to determine the validity of each potential claim. Based upon the advice of legal counsel, management records an estimate of the amount of ultimate expected loss, if any, for each year. Events could occur that would cause the estimate of ultimate loss to differ materially in the near term.

**Note 14: Commitments**

***Construction Project***

The Home has entered into agreements for renovation of space to the building. The approximate uncompleted cost of the project at December 31, 2014, is \$3,500,000 and will be funded by additional borrowing under the existing agreement with INTRUST Bank as described in *Note 7*.



## **Attachment D**

### **Kansas Masonic Home Key Personnel**

#### **Matthew Bogner, C.E.O.**

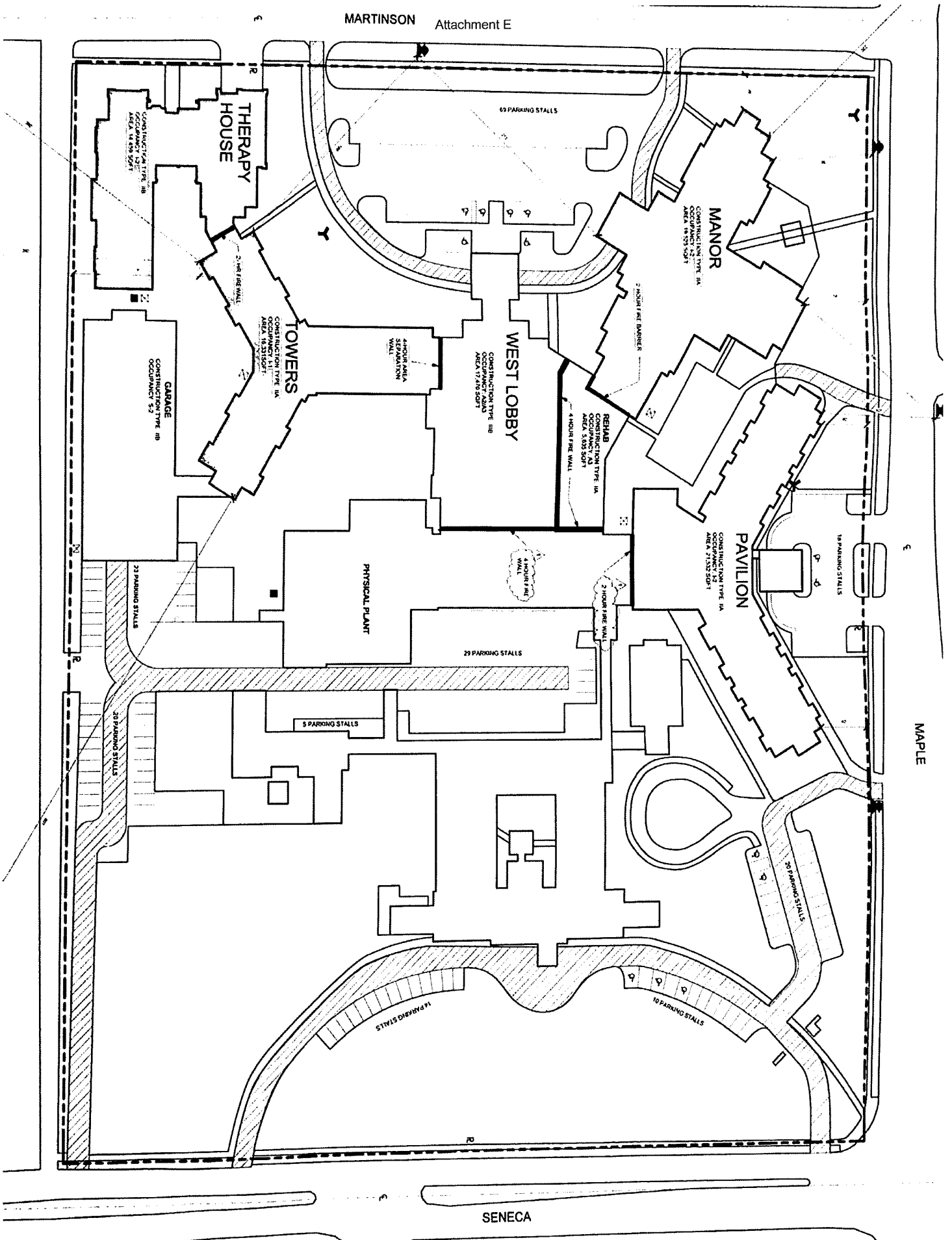
Matthew has been with KMH since December, 2008. He served three years as Chief Operating Officer for the 120 bed healthcare center. He became the Chief Executive Officer in July, 2011. Matthew has a B.A. in Psychology, a Masters in Public Health, and is completing his Doctorate in Health Administration.. He is a Licensed Adult Care Home Administrator, and a Licensed Administrator in Training Preceptor. Prior to joining KMH, Matthew served as Administrator at Newton Presbyterian Manor in Newton.

#### **Roger Henre, C.F.O.**

Roger has been with KMH since February, 2015 in the position of Chief Financial Officer. He has nearly 40 years experience in the public and private sector and seven years experience in the non-profit sector. He is a Certified Public Accountant in the State of Kansas. Roger has a Bachelor of Science in Accounting and Business Administration.

#### **Larry Nanny, C.O.O.**

Larry has been with KMH since January, 2016 as Chief Operating Officer. He has spent twelve years as a Long Term Care Administrator for both for-profit and non-profit facilities. He is a Licensed Adult Care Home Administrator in both Kansas and Missouri. Prior to coming to KMH, Larry was the Administrator for Via Christi Village Ridge in Wichita. Larry has a Bachelor of Science in Healthcare Administration.



## **Attachment F**



200 South Wacker Drive  
Suite 2000  
Chicago, IL 60606  
Phone: 312-263-0110  
Toll-free: 800-366-8899  
Fax: 312-263-5217  
[www.ziegler.com](http://www.ziegler.com)

William R. Carney  
Managing Director  
Senior Living Finance

March 23, 2016

Mr. Matthew Bogner  
Chief Executive Officer  
KMH  
Presbyterian Manors, Inc.  
402 S Martinson St  
Wichita, KS 67213

Dear Matthew:

As you know, Ziegler is currently engaged as underwriter by KMH in connection with financing your capital needs for your senior living properties with municipal bonds. We are currently working with you to prepare a bond financing to fund the refinancing of certain outstanding Kansas indebtedness. The financing is expected to close this year.

It is anticipated that the financing referred to above will be comprised of fixed rate, tax-exempt, unrated bonds. The market for senior living bonds in Kansas continues to be very efficient and access to capital in the bond markets is strong. Ziegler maintains substantial relationships with both retail investors and institutional investors and we believe sufficient appetite for future KMH financings exists, with attractive interest rates and terms. At the present time, we are comfortable underwriting bonds for KMH, subject to the continuation of today's healthy bond market and KMH's credit profile.

Please feel free to contact us with any questions, or if you should require further information.

Sincerely,

William R. Carney  
Managing Director  
B.C. Ziegler and Company

**RESOLUTION NO. 16-077**

**A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS DETERMINING THE ADVISABILITY OF ISSUING HEALTH CARE FACILITIES REVENUE BONDS FOR THE PURPOSE OF REFINANCING RENOVATIONS AND IMPROVEMENTS TO AN EXISTING HEALTH CARE FACILITY LOCATED IN SAID CITY; AND AUTHORIZING EXECUTION OF RELATED DOCUMENTS.**

**WHEREAS**, the City of Wichita, Kansas (the "City") is a municipal corporation, duly created, organized and existing under the Constitution and laws of the State of Kansas (the "State"); and

**WHEREAS**, the City Council (the "Governing Body") of the City desires to promote, stimulate and develop the general economic welfare and prosperity of the City, and thereby to further promote, stimulate and develop the general economic welfare and prosperity of the State; and

**WHEREAS**, pursuant to the provisions of the Kansas Economic Development Revenue Bond Act, as amended and codified in K.S.A. 12-1740 *et seq.* (the "Act"), the City is authorized to issue revenue bonds for such purposes; and

**WHEREAS**, the Governing Body determines it to be advisable and in the interest and for the welfare of the City and its inhabitants that revenue bonds of the City be authorized and issued, in one or more series, to provide funds to refinance certain outstanding obligations, the proceeds of which were used to finance or refinance the costs of renovation and improvements to the skilled nursing and assisted living facilities at the Kansas Masonic Home (the "Project"), which is located in the City; and

**WHEREAS**, the Project shall be leased by the City to the Kansas Masonic Home, a Kansas nonprofit corporation (the "Tenant").

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:**

**Section 1. Public Purpose.** The Governing Body hereby finds and determines that the Project will promote, stimulate and develop the general economic welfare and prosperity of the City, and thereby further promote, stimulate and develop the general economic welfare and prosperity of the State.

**Section 2. Authorization to Acquire Project; Intent to Issue Bonds.** The City is hereby authorized to proceed with the acquisition of the Project and to issue its revenue bonds, in one or more series, in an aggregate principal amount not to exceed \$35,000,000 (the "Bonds") to pay the costs of retiring the outstanding obligations used to finance or refinance the Project, subject to satisfaction of the conditions of issuance set forth herein.

**Section 3. Conditions to Issuance of Bonds.** The issuance of the Bonds is subject to: (a) the Tenant's written acceptance of a Letter of Intent containing the City's conditions to the issuance of the Bonds in accordance with the City's Economic Development Incentive Policy (the "Letter of Intent"); (b) the successful negotiation and sale of the Bonds to a purchaser or purchasers to be determined by the Tenant and

acceptable to the City (the "Purchaser"), which sale shall be the responsibility of the Tenant and not the City; (c) the receipt of the approving legal opinion of Gilmore & Bell, P.C. ("Bond Counsel") in form acceptable to the City, the Tenant and the Purchaser; (d) the obtaining of all necessary governmental approvals to the issuance of the Bonds; and (e) the commitment to and payment by the Tenant or Purchaser of all expenses relating to the issuance of the Bonds, including, but not limited to: (i) expenses of the City and the City Attorney; (ii) any underwriting fees and expenses; (iii) all legal fees and expenses of Bond Counsel; and (iv) all recording and filing fees, including fees of the Kansas Board of Tax Appeals.

**Section 4. Reliance by Tenant; Limited Liability of City.** It is contemplated that in order to expedite acquisition of the Project and realization of the benefits to be derived thereby, the Tenant may incur temporary indebtedness or expend its own funds to pay costs of the Project prior to the issuance of the Bonds; provided that the such expenditures incurred prior to the issuance of the Bonds are at the risk of the Tenant that the Bonds will actually be issued. Proceeds of Bonds may be used to reimburse the Tenant for such expenditures made not more than 60 days prior to the date this Resolution is adopted, and as provided by §1.150-2 of the U.S. Treasury Regulations. The Bonds herein authorized and all interest thereon shall be paid solely from the revenues to be received by the City from the Project and not from any other fund or source. The City shall not be obligated on such Bonds in any way, except as herein set out. In the event that the Bonds are not issued, the City shall have no liability to the Tenant.

**Section 5. Execution and Delivery of Documents.** The Mayor is hereby authorized to execute the Letter of Intent, and the City Clerk is authorized to deliver executed copies of this Resolution and the Letter of Intent to the Tenant. After the Tenant has demonstrated compliance with the provisions of the Letter of Intent, the Mayor and City Clerk are authorized to execute a bond purchase agreement with the Purchaser and the Tenant for the sale of the Bonds in a form satisfactory to the City Attorney and Bond Counsel.

**Section 6. Further Action.** The Mayor, City Clerk and other officials and employees of the City, including the City Attorney and Bond Counsel, are hereby further authorized and directed to take such other actions as may be appropriate or desirable to accomplish the purposes of this Resolution, including, but not limited to: (a) execution on behalf of the City of the information statement regarding the proposed issuance of the Bonds to be filed with the State Board of Tax Appeals pursuant to the Act; and (b) cooperate with the Tenant to maintain any *ad valorem* property tax exemption for the Project and related facilities which is consistent with the Tenant's charitable purposes, and execute such documents in connection therewith as are approved by the City Attorney.

**Section 7. Effective Date.** This resolution shall become effective upon adoption by the Governing Body and shall remain in effect until December 31, 2017, unless extended by affirmative vote of a majority of the Governing Body.

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**ADOPTED** by the City Council of the City of Wichita, Kansas, on April 19, 2016.

(SEAL)

---

Jeff Longwell, Mayor

ATTEST:

---

Karen Sublett, City Clerk

APPROVED AS TO FORM:

---

Jennifer Magaña, Director of Law and  
City Attorney

**CERTIFICATE**

I hereby certify that the above and foregoing is a true and correct copy of the Resolution adopted by the City Council of the City of Wichita, Kansas on April 19, 2016, as the same appears of record in my office.

DATED: April 19, 2016.

---

Karen Sublett, City Clerk

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**EXCERPT OF MINUTES OF A MEETING  
OF THE GOVERNING BODY OF  
THE CITY OF WICHITA, KANSAS  
HELD ON APRIL 19, 2016**

The governing body of the City of Wichita, Kansas met in regular session at the usual meeting place in the City, at 9:00 a.m., the following members being present and participating, to-wit:

Absent: .

The Mayor declared that a quorum was present and called the meeting to order.

\* \* \* \* \*

(Other Proceedings)

Among other business, in accordance with notice published on April 4, 2016, in the *Wichita Eagle*, a public hearing was held by the governing body relating to the proposed issuance of not to exceed \$35,000,000 principal amount of Health Care Facilities Revenue Bonds (Kansas Masonic Home). All interested persons were afforded an opportunity to present their views on the issuance of the Bonds and the location and nature of the Project to be financed with the proceeds of the Bonds. Thereupon, the public hearing was closed.

Thereupon, there was presented a Resolution entitled:

**A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF WICHITA,  
KANSAS DETERMINING THE ADVISABILITY OF ISSUING HEALTH CARE  
FACILITIES REVENUE BONDS FOR THE PURPOSE OF REFINANCING  
RENOVATIONS AND IMPROVEMENTS TO AN EXISTING HEALTH CARE  
FACILITY LOCATED IN SAID CITY; AND AUTHORIZING EXECUTION OF  
RELATED DOCUMENTS**

Thereupon, Councilmember \_\_\_\_\_ moved that said Resolution be adopted. The motion was seconded by Councilmember \_\_\_\_\_. Said Resolution was duly read and considered, and upon being put, the motion for the adoption of said Resolution was carried by the vote of the governing body, the vote being as follows:

Aye:

Nay:

Thereupon, the Resolution was then duly numbered Resolution No. \_\_\_\_\_, and was signed by the Mayor and attested by the Clerk.

(Other Proceedings)

\* \* \* \* \*



### **CERTIFICATE**

I certify that the foregoing Excerpt of Minutes is a true and correct excerpt of the proceedings of the governing body of the City of Wichita, Kansas held on the date stated therein, and that the official minutes of such proceedings are on file in my office.

[SEAL]

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Karen Sublett, City Clerk

**City of Wichita  
City Council Meeting  
April 19, 2016**

**TO:** Mayor and City Council

**SUBJECT:** Authorization to Issue a Request for Proposal for the Potential Sale of the Hyatt Regency Hotel (District I)

**INITIATED BY:** Office of Urban Development

**AGENDA:** New Business

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**Recommendations:** Authorize staff to draft and issue a Request for Proposals (RFP) for the sale of the Hyatt Regency Hotel.

**Background:** On September 25, 2001, the City Council authorized the purchase of the Hyatt Regency Hotel in downtown Wichita from the original developer, East Bank Hotel Associates, LLC. The City has indicated an interest in soliciting purchase offers for the hotel. City policy requires Council approval for the staff to be authorized to develop and issue a Request for Proposals.

**Analysis:** The Hyatt Regency Hotel was developed in 1995 with 303 guest rooms and suites, approximately 40,000 square feet of meeting and conference space, two restaurants, cocktail lounges, health club, a swimming pool and a 500 car parking garage. In 2001, the original developer had offered its interest in the hotel to the general market. The City was concerned that the Hyatt Regency flag might change to a different hotel chain under a potential new owner. Consequently, the City acquired the Hyatt Regency Hotel to insure that a high quality hotel and conference space located adjacent to Century II remain as a flagged hotel.

The City contracted with Hyatt Hotels Corporation for the day-to-day management of the hotel. The hotel has been successfully operated since the City's acquisition and the City now has a strategic interest in soliciting proposals for the disposition of the hotel. The existing management agreement with Hyatt Hotels Corporation runs through the end of 2026.

In review of the City's Real Estate Disposition guidelines, the possible sale of the Hyatt is of a strategic nature and therefore falls in the Type 3 category of disposition. As the property has been developed and is in current operation with an existing hotel management agreement, the City will evaluate each qualified offer to purchase based on purchase price, evidence of financial capacity to acquire and maintain, and current and/or previous successful hotel ownership experience. All purchase offers must be paid in cash and due at close of escrow. Bidders will also be required to assume and maintain the Hyatt Regency flag designation and assume the requirements of the existing hotel management agreement. The City retains the right to reject any and all offers.

Due to the unique nature that the property is fully developed with a third party operator, staff is requesting an exception to Review Committee composition. Upon receipt of qualified offers to purchase, a selection team composed of external legal and financial expertise, internal legal and financial representatives and staff from the Urban Development Office will conduct a due diligence review for the top qualified bidders. If an offer to purchase is determined by the selection team to achieve the maximum financial benefit and ownership standards, staff will return to the City Council with a recommendation to approve a final purchase agreement.

**Financial Considerations:** Any proceeds from the sale of the hotel will be directed to the City's General Fund.

**Legal Considerations:** A Request for Proposals will be reviewed by the Law Department prior to its issuance.

**Recommendation/Action:** It is recommended that City Council authorize staff to draft and issue a Request for Proposals (RFP) for the sale of the Hyatt Regency Hotel.

**Attachments:** None

**City of Wichita  
City Council Meeting  
April 19, 2016**

**TO:** Mayor and City Council

**SUBJECT:** Wichita Employees' Retirement and Police and Fire Retirement Systems  
Actuarial Valuation Reports as of December 31, 2015

**INITIATED BY:** Department of Finance

**AGENDA:** New Business

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**Recommendations:** Receive and file the actuarial reports and approve the 2017 employer contribution rates.

**Background:** The Board of Trustees for both the Wichita Employees' Retirement (WER) System and the Police and Fire (P&F) Retirement System employ Cavanaugh Macdonald Consulting, LLC to serve as technical advisor/consultant, supplying the Boards with required actuarial services and information pertaining to the Retirement Systems. The actuary recommends the mortality, interest rates, and other required actuarial tables; prepares an annual valuation of assets and liabilities; makes an annual determination of the amount of contributions necessary to meet requirements for annuities and benefits, certifying the results to the Boards; and reviews the operating experience of the Retirement Systems as an evaluation of the adequacy of the recommended actuarial standards.

**Analysis:** The funding objective of the WER and P&F Retirement Systems is to establish and receive contributions, expressed as percents of active member pensionable payroll, which will remain approximately level from year to year, minimizing increases for future generations of citizens. This funding objective should be attainable, as long as the benefits and the demographic make-up of members does not change materially, and actuarial assumptions are realized. The Retirement Systems are supported by: (1) member contributions; (2) City contributions; and (3) investment income from the Retirement Systems' assets. Key results of the actuarial valuations are summarized below.

1. The actuary's valuations state that for the fiscal year beginning January 1, 2017, the City's required contribution to the defined benefit plans in the WER System is 12.3% and the required contribution to the P&F System is 19.2%. Contribution rates are stated as a percent of active member pensionable payroll. These rates are based on the benefit provisions and active member contribution rates in effect on December 31, 2015. The City's required contribution to Plan 3, the defined contribution plan in the WER System, is 4.7%.
2. The funded ratios (liabilities covered by assets) and employer (City) contribution rates for the WER and P&F Retirement Systems over the past five (5) years are shown below:

Wichita Employees' Retirement System

<u>Period Ending 12/31</u>	<u>Budget Year</u>	<u>Funded Ratio</u>	<u>Employer Contributions</u>	
			<u>Pension Trust</u>	<u>Pension Reserve</u>
2011	2013	92.5%	12.6%	0.0%
2012	2014	91.0%	13.2%	0.0%
2013	2015	93.1%	12.2%	0.0%
2014	2016	94.9%	11.6%	0.3%
2015	2017	93.8%	12.3%	0.0%

Police and Fire Retirement System

Period <u>Ending 12/31</u>	Budget <u>Year</u>	Funded <u>Ratio</u>	<u>Employer Contributions</u>	
			<u>Pension Trust</u>	<u>Pension Reserve</u>
2011	2013	90.8%	22.8%	0.0%
2012	2014	90.5%	22.4%	0.0%
2013	2015	92.5%	21.3%	0.0%
2014	2016	95.1%	18.8%	1.3%
2015	2017	94.7%	19.2%	0.0%

3. In summary, the actuary's reports reflect that the aggregate experience of the Retirement Systems during the twelve (12) months ended December 31, 2015 resulted in a net loss for WER and P&F, due to the negative experience on assets and liabilities. The actual market value return for 2015 was -.1%, however the actuarial return on assets was 6.1% for WER and 6.2% for P&F, due to partial recognition of deferred gains from the positive investment experience in 2014. Actual returns over the next few years will determine if and how, the deferred investment loss will be recognized which, in turn, will impact the future contribution rates for both WER and P&F.

**Financial Considerations:** In accordance with the actuary's recommendation regarding the City's actuarially required contribution rates, the Department of Finance recommends the City's contribution rates, expressed as a percent of active member pensionable payroll, increase from 11.9% to 12.3% for WER, and decrease from 20.1% to 19.2% for P&F for the fiscal year 2017.

**Legal Considerations:** Under the Ordinances creating the two pension systems, the City is required to make the actuarially required contributions to the Retirement Systems.

**Recommendation/Actions:** It is recommended that the City Council receive and file the Wichita Employees' Retirement and Police and Fire Retirement Systems' Actuarial Valuation Reports as of December 31, 2015 as submitted, and approve the 2017 employer retirement fund contribution rates.

**Attachments:** Wichita Employees' Retirement System Actuarial Valuation as of December 31, 2015 and Police and Fire Retirement System of Wichita, Kansas, Actuarial Valuation as of December 31, 2015.

**City of Wichita  
City Council Meeting  
April 19, 2016**

**TO:** Mayor and City Council

**SUBJECT:** Tourism Business Improvement District - 2017 Scope of Services (All Districts)

**INITIATED BY:** City Manager's Office

**AGENDA:** New Business

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**Recommendation:** Receive, approve and file the Tourism Business Improvement District (TBID) 2017 Scope of Services and Budget.

**Background:** The Visit Wichita Convention and Visitors Bureau (Visit Wichita), formerly Go Wichita, receives annual funding from the City of Wichita for the promotion of tourism and convention activities. Due to economic conditions, this allocation has experienced limited growth in recent years while competition for tourists and conventions in the state has intensified. In 2013, to address a decrease in funds, Visit Wichita proposed the creation of a Tourism Business Improvement District (TBID) to promote tourism and provide certain related services within the City.

At the March 25, 2014 meeting, the City Council passed Ordinance 49-677 creating the business improvement district with boundaries the same as the legal limits of the City of Wichita. The TBID Advisory Board members were appointed on April 1, 2014 by the City Council. Upon approval of the ordinance, the City Council also entered into a contract with Visit Wichita to provide the services as established by the ordinance and approved by the City Council. Providing services as part of its contract, Visit Wichita has generated a proposed Tourism Business Improvement District 2017 Scope of Services and Budget. The document has been reviewed and approved by the TBID Board.

**Analysis:** The attached TBID 2017 Scope of Services and Budget outlines how funds received from a 2.75% nightly hotel room fee will be used to promote tourism in Wichita during 2017. As outlined in the Scope of Services, it is estimated the leisure marketing will increase hotel demand by 64,000 incremental room nights while group marketing is estimated to increase hotel demand by an additional 16,000 incremental room nights.

The budget for 2017 shows that the TBID is expected to generate \$3 million in revenues, which will be used to fund leisure and group marketing efforts. Approximately, \$1.67 million of revenues will be used towards leisure efforts. An additional \$765,000 will be spent on group marketing efforts with approximately half of the funds going towards attracting conventions in future years. The remainder of the funds, \$565,000, will be used to cover general expenses including personnel, research, city administrative and professional fees.

To best measure the effectiveness of the leisure marketing efforts in future years, Visit Wichita will work with Strategic Marketing & Research Insights, LLC (SMARI). SMARI will utilize data gathered on leisure visitors to establish baselines for economic impact, return on investment, average number of room

nights and paid room nights. These baselines will be used to measure increases in leisure travel and will assist in determining future years' performance measures and budgets.

The TBID 2017 Scope of Services and Budget were generated based on 2015 results as seen in the below table:

Leisure Performance Measures											
Goal				Actual				Comments			
32,000 Incremental Room Nights				Summer Campaign		51,873		Incremental room nights were determined by SMARI research.			
				Holiday Campaign		15,067					
				Total Incremental Room Nights		66,940					
2% Increase in Occupancy over 2013				Occupancy 2013		61.6%		Changes in occupancy are affected by changes in both supply and demand. Had supply remained constant occupancy would have decreased in 2014 by 1% and then increased in 2015 by 1.8%.			
				Occupancy 2015		61.4%					
				Change in Occupancy		-0.2%					
								Based on data running two years behind and all the movement in supply we do not recommend using occupancy for measurement. We recommend using demand for trending purposes.			
Economic Impact				Economic Impact				Economic Impact was determined by SMARI research. Summer Campaign 38.4M and Holiday Campaign 14.7M			
\$ 9,500,000				\$ 53,100,000		Economic Impact					
\$ 2,720,000		\$ 85.00 Hotel Revenue		\$ 5,621,621		\$ 83.98 Hotel Revenue					
\$ 163,200		6.00% TGT		\$ 337,297		6.00% TGT					
\$ 74,800		2.75% Tourism Fee		\$ 154,595		2.75% Tourism Fee					
\$ 675,280		7.15% Sales Tax		\$ 3,982,500		7.50% Sales Tax					
Return on Investment - Leisure Media Buy				Media Leisure Investment		1,207,246.89					
6.87 to 1				ROI		\$ 43.98					
Group Performance Measures											
Goal				Actual				Comments			
Due to long lead times in the group market, the focus in year 1 is to build the sales pipeline and work towards the goal of approximately 16K incremental future room nights booked annually.				Increased 4,998 room nights over base*							
				Economic Impact \$1,792,710.86							
				ROI \$5.33 to 1							
* Base is 5 year average											

\* Base is 5 year average

**Financial Considerations:** The leisure and group marketing efforts outlined in the 2017 Scope of Services will be completely funded through TBID revenues raised through an annual fee levied on all hotels within the district having 50 rooms or more. The fee is calculated as 2.75% of the amount of the hotel's subject room rentals and funds raised will be deposited in an agency fund. The district anticipates generating \$3 million in 2017 for enhanced marketing. Group marketing efforts are expected to generate \$5.8 million in economic impact, while leisure marketing efforts are expected to generate \$55 million in economic impact.

In addition to approving the TBID Budget for 2017, the Council is also approving the use of carryover funds from 2015 that came in higher than budgeted, during 2016. Specifically, carryover funds totaling \$272,053.36 will be used for the following: \$167,053.36 towards additional marketing efforts for the Leisure Summer Campaign; \$30,000 will fund traditional radio advertising for the Leisure Holiday Campaign; \$75,000 will go towards the hiring of a Marketing Strategic Analyst; and \$80,000 will be used to hire research companies Adara and Arrivalist to perform further analytics.

**Legal Considerations:** Kansas statutes and the Ordinance enacting the TBID require annual preparation of a business plan and budget. The scope of services identified in the 2017 plan is consistent with the services contemplated by the Ordinance.

**Recommendation/Actions:** It is recommended that the City Council receive, approve and file the Tourism Business Improvement District (TBID) 2017 Scope of Services and Budget.

**Attachments:** TBID 2017 Scope of Services and Budget



## Tourism Business Improvement District 2017 SCOPE OF SERVICES AND BUDGET

### **Purpose:**

The Tourism Business Improvement District (TBID) was created to provide incremental marketing dollars to Visit Wichita to market Wichita. The TBID dollars are supplemental to the existing Visit Wichita budget. The Wichita City Council voted to adopt the TBID ordinance on March 25, 2014, and the TBID commenced on January 1, 2015. In accordance with the Kansas Business Improvement District statute, the TBID Advisory Board must present the following year's scope of services and budget before May 15 to the City Council for approval. This document outlines those services as well as the budget for 2017.

### **Objective:**

Market Wichita to both leisure and group visitors to drive incremental hotel demand.

### **Key Drivers**

#### *Leisure:*

- Produce two multi-platform marketing campaigns with media mix reflective of research findings
- Continue to conduct ad effectiveness research per campaign to assist in determining future year's scope of work
- Expand campaigns in Kansas City area to include all media platforms

#### *Group:*

- Introduce meeting planners to Wichita through continued national brand advertising
- Continue focus on sports market
- Utilize 2016 meeting planner ad effectiveness research to maximize spend

### **Budget:**

Revenues		2017
CITY OF WICHITA - TBID		\$3,000,000
	TOTAL REVENUE	\$3,000,000
Expenditures		TOTAL
LEISURE		
	Summer Campaign <sup>1</sup>	\$913,921
	Holiday Campaign <sup>2</sup>	\$306,079
	Year Round Digital/Print	\$200,000
	Event Marketing <sup>3</sup>	\$40,000
	Agency Creative and Production <sup>4</sup>	\$210,000
	LEISURE TOTAL	\$1,670,000
GROUP		

	Meeting Planner/Sports Initiatives <sup>5</sup>	\$355,000
	Publication Advertising <sup>6</sup>	\$410,000
	GROUP TOTAL	\$765,000
GENERAL		
	Personnel/ADM <sup>7</sup>	\$395,000
	Research/ROI <sup>8</sup>	\$165,000
	Professional Fees <sup>9</sup>	\$5,000
	GENERAL TOTAL	\$565,000
	TOTAL EXPENDITURES	\$3,000,000

**FOOTNOTES:**

1. Media buy (TV, radio, print, digital, digital outdoor, social)
2. Media buy (TV, radio, print, digital, digital outdoor, social)
3. Event media buy
4. Creation of all elements of marketing campaigns (TV, print, radio, digital, etc.)
5. Incremental sports and group trade show sponsorships (hosted and future), sales calls, site visits, sports bid fees, etc.
6. Advertising in key meeting planner publications and sports publications
7. Allocation of approximately 60% for additional sales employee, marketing coordinator and marketing analyst and allocation of approx. 40% for Visit Wichita personnel to execute TBID initiatives
8. Advertisement effectiveness ROI, commercial testing, meeting planner publication research
9. Annual audit and legal fees

*Note: Adjustments may be made based on 2016 results and/or learnings*

**Strategy:**

The Kansas Business Improvement District statute requires that the Scope of Services be presented to the City Council by May 15 for the following year. As such, this plan was prepared prior to implementation of the 2016 plan. Once the 2016 plan has been executed and key learnings identified, the 2017 plan may be adjusted accordingly.

**Group Business Performance Measurements:**

Group Sales focuses on identifying prospects that would host a meeting, convention and/or trade show in Wichita. These group meetings and events are generally in the trade association, specialty and sports market segments and typically book several years in advance. This segment is measured by confirmed future bookings through Visit Wichita.

***Group Goal: 16K future room nights.***

***Impact:***

- \$5.8M economic impact
- \$1,360,000 hotel room revenue (\$85 per night)
- \$81,600 total transient guest tax (6%)
- \$37,400 tourism fee (2.75%)
- \$430,440 total sales tax (7.5%)

### **Leisure Performance Measurements:**

Leisure market focuses on influencing a visit to Wichita through specific advertising campaigns. The effectiveness of this advertising will be measured after each campaign. Since 1983, Strategic Marketing & Research, Inc., (SMARI) has been helping clients get the research they need and apply that research to make the best business decisions. We will utilize their services after each leisure campaign to ultimately determine the Return on Investment (ROI) of the campaign. SMARI's methodology for calculating the impact of a marketing campaign relies on incremental travel. The rate of travel by those who are "unaware" is considered the base rate of travel, which would have been achieved if no advertising were placed. Any travel above this base by "aware" households is considered influenced – or the rate of incremental travel. The final measurements of the success of the marketing campaigns are the economic impact of the campaigns and return on investment that it generates. Again, the SMARI methodology does not consider all travel to the city when making such calculations. Even without any advertising, consumers would travel to Wichita. However, the research will identify those visitors, room nights and spend that would not have occurred without the additional advertising investment. In addition to the ROI, the research will also provide insight and recommendations to help guide and refine future marketing campaigns.

The charts below indicate the information we will receive to evaluate the effectiveness of the campaign. We will use this information to assist in future planning.

<b>Economic Impact &amp; ROI</b>	<b>Influenced Room Nights</b>	
Aware HHs	Incremental Trips	
Incremental Travel %	% using paid accommodation	
Incremental Traveling HHs	Trips with paid accommodation	
Avg. Trip Spending	Ave. # nights	
<b>Economic Impact</b>	<b>Paid Room Nights</b>	
Media Spending		
<b>ROI</b>		

### ***Leisure Goal: 64K room nights:***

#### ***Impact:***

- \$55M economic impact
- \$5,440,000 hotel revenue (\$85 per night)
- \$326,400 total transient guest tax (6%)
- \$149,600 tourism fee (2.75%)
- \$4,125,000 total sales tax (7.5%)

**City of Wichita  
City Council Meeting  
April 19, 2016**

**TO:** Mayor and City Council

**SUBJECT:** Ordinance Amending Title 10 of the Code of the City of Wichita, Kansas,  
Pertaining to Right-of-Way, Streets and Sidewalks (All Districts)

**INITIATED BY:** Department of Public Works & Utilities

**AGENDA:** New Business

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**Recommendation:** Place the proposed ordinance amendments on first reading and authorize the necessary signatures.

**Background:** The City Engineer is charged with enforcement of Title 10 of the City Code of the City of Wichita, pertaining to use and protection of the City right-of-way. Each year, multiple right-of-way complaints and concerns are reported by property owners responsible for maintenance of that right-of-way. Because the current effectiveness of the ordinance is limited by lack of enforcement capabilities, compliance is mostly voluntary.

In addition, the City Engineer issues various permits to property owners, contractors, utility companies and drain layers authorizing the use of or work in street right-of-way and easements.

Although certain sections of Title 10 have been revised and updated over the years, it is believed that some areas have not been revised since inception. Various changes to procedures, department names, titles and terminology have occurred, but little has been revised regarding right-of-way use and associated fees.

One-time administrative permit fees were last increased in May 2003. The annual use fees for rental of City right-of-way have not been increased since July 1, 1954. Consequently, the cost for inspection, issuing and administering the permits exceed the generated revenues.

**Analysis:** Staff held multiple meetings with involved City departments, contractors, utilities and the development community to identify areas of the ordinance for improvement. Based on these meetings, it was determined that Title 10 needs to be restructured, terminology and language updated, enforcement capabilities enhanced, and fees revised.

Highlights of proposed changes are as follows:

**Chapter 10.04 “Streets and Sidewalks in the Right-of-way, in General”**

- a) Damage to City right-of-way. The ordinance change allows the City to assess the cost for repairing damage to City right-of-way to the abutting parcel.
- b) Obstructing City right-of-way. The ordinance change allows the City to assess the cost of removing obstructions from the right-of-way to the abutting parcel.
- c) Enforcement. The Metropolitan Area Building and Construction Department, Engineering, Wichita Fire Department and Wichita Police Department are given the power to enforce any provision of Chapter 10.04.

**Chapter 10.08 “Minor Street Privileges”**

- a) “Minor Street Privilege Permit” has been changed to “Right-of-Way Use Permit”.
- b) “Easement Use Permit” which allows for a permit for the owner to occupy and construct

improvements on, under, or over a public easement, has been added. This would replace the previously used Hold Harmless Agreement.

#### Chapter 10.12 “**Construction**”

- b) Allows the City to require errors in construction on the right-of-way to be corrected by the abutting property owner when the contractor cannot be identified, or is not licensed and bonded.
- c) Allows the City to repair errors in construction on the right-of-way and levy the expense against the abutting lot.

#### Chapter 10.16 “**Driveways and Curb Cuts**”

- a) Allows the City to remove or reconstruct any drive approach, curb or other structure on the right-of-way, which is in violation of this chapter, and levy the expense against the abutting lot.

#### Chapter 10.20 “**Excavation**”

- a) Allows the City Engineer to require excavation by trenchless methods.
- b) Allows the City to charge a penalty for failure to obtain a permit prior to the beginning of excavating in the right-of-way.
- c) The fees in this section have been changed and moved to Section 10.34.

#### Chapter 10.24 “**Moving Buildings**”

- a) The ordinance change requires a moving contractor to submit a \$100,000 surety bond and \$500,000 certificate of insurance prior to receiving a permit.
- b) The ordinance change requires a moving contractor to obtain a building permit for the new location if the building being moved is to be relocated within the City of Wichita limits prior to receiving a permit.
- c) The Director of Park and the Maintenance Engineer will be allowed to invoice the moving contractor for the estimated costs for moving, modifying, or otherwise disturbing any existing City trees or City facilities.

Chapter 10.34 “**Miscellaneous Fees**” has been created, which consolidates the fees in Title 10 into a table format. The attachment to this agenda item reflects current and proposed administrative and annual use fees for all sections.

Additionally, the changes made to Title 10 require changes to Sections in Title 1, Title 11, Title 17, and Title 24.

**Financial Considerations:** The proposed fee increases are projected to cover permit initiation, administration and inspection costs based on a detailed analysis completed by Finance and Engineering staff. Contractors, utilities and the development community have been advised of the proposed increases with no negative feedback received.

**Legal Considerations:** The ordinance amendments have been reviewed and approved as to form by the Law Department.

**Recommendation/Action:** It is recommended that the City Council place the ordinances on first reading and authorize the necessary signatures.

**Attachments:** Fee tables, Ordinances amending Title 10, and Sections of Titles 1, 11, 17 and 24 of the City Code.

(First published in The Wichita Eagle, April 29, 2016)

ORDINANCE NO. 50-176

AN ORDINANCE AMENDING SECTION 1.04.060 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO GENERAL PENALTY AND CONTINUING VIOLATIONS, AND REPEALING THE ORIGINAL THEREOF.

AN ORDINANCE CREATING SECTION 1.04.205 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO THE ENFORCEMENT OF ORDINANCES BY THE CITY ENGINEER.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 1.04.060 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“General penalty; continuing violations, offset.”**

When in this Code or in any ordinance or any rule or regulation promulgated by any officer or agency of the City under authority vested in that entity by law or ordinance, any act is prohibited or is declared to be unlawful or a misdemeanor or the doing of any act is required, or the failure to do any act is declared to be unlawful, and no specific penalty is provided therefore, the violation of any such provision of this Code, or any such ordinance, rule or regulation shall be punished by a fine of not more than twenty-five hundred (2,500) dollars. Each day any violation of this Code or any such ordinance, rule or regulation continues shall constitute a separate offense.

Notwithstanding any other ordinance, provision, rule, code, or regulation of the City, any amount owed to a business contractor, individual, or any other entity, regardless of nature, may be offset by the amount owed by that business, individual, or entity to the City as a fee, fine, penalty, or any other cost.

SECTION 2. Section 1.04.205 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Enforcement of code by City Engineer.”**

The City Engineer and the Engineer's designees shall have the power of a law enforcement officer for the purpose of signing or serving a complaint and a notice to appear upon any person when the Engineer or the Engineer's designee has probable cause to believe such person has or is violating an ordinance that the Engineer has the responsibility to enforce.

SECTION 3. The original of Section 10.04.060 of the Code of the City of Wichita, Kansas, is hereby repealed.

SECTION 4. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official City paper.

PASSED by the governing body of the City of Wichita, Kansas this 26th day of April, 2016.

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Jeff Longwell, Mayor

ATTEST:

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Karen Sublett, City Clerk

Approved as to Form:

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Jennifer Magaña  
Director of Law and City Attorney

## CERTIFICATE

I hereby certify that the foregoing is a true and correct copy of the original ordinance; that said Ordinance was passed on \_\_\_\_\_, 2016; that the record of the final vote on its passage is found on page \_\_\_\_ of journal \_\_\_\_; and that the Ordinance was published in ***The Wichita Eagle*** on \_\_\_\_\_, 2016.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Karen Sublett, City Clerk

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## DELINEATED

### **Section 1.04.060**

**“General penalty; continuing violations, offset.”** When in this Code or in any ordinance or any rule or regulation promulgated by any officer or agency of the eCity under authority vested in ~~him~~ that entity ~~or it~~ by law or ordinance, any act is prohibited or is declared to be unlawful or a misdemeanor or the doing of any act is required, or the failure to do any act is declared to be unlawful, and no specific penalty is provided therefore, the violation of any such provision of this Code, or any such ordinance, rule or regulation shall be punished by a fine of not more than twenty-five hundred (2,500) dollars. Each day any violation of this Code or any such ordinance, rule or regulation continues shall constitute a separate offense.

Notwithstanding any other ordinance, provision, rule, code, or regulation of the City, any amount owed to a business contractor, individual, or any other entity, regardless of nature, may be offset by the amount owed by that business, individual, or entity to the City as a fee, fine, penalty, or any other cost.

### **Section 1.04.205**

**”Enforcement of code by City Engineer.”** The City Engineer and the Engineer’s designees shall have the power of a law enforcement officer for the purpose of signing or serving a complaint and a notice to appear upon any person where the Engineer or the Engineer’s designee has probable cause to believe such person has or is violating an ordinance where the Engineer has the responsibility of enforcing such ordinance.

(First published in *The Wichita Eagle*, on April 29, 2016)

ORDINANCE NO. 50-177

AN ORDINANCE ADMENDING SECTIONS 10.08.010, 10.08.020, 10.08.030, 10.08.040, 10.08.050, 10.08.060, 10.08.070, 10.08.080, 10.08.090, 10.08.100, 10.08.110, 10.08.120, 10.08.130, 10.08.140, 10.08.150, 10.08.160, 10.08.170, 10.08.180, 10.08.190, 10.08.200, 10.08.210, 10.08.220, 10.08.230, AND 10.08.240 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO RIGHT-OF-WAY AND EASEMENT USE PERMITS, IN GENERAL, AND REPEALING THE ORIGINALS THEREOF.

AN ORDINANCE CREATING SECTIONS 10.08.081, 10.08.135, 10.08.175, 10.08.176, 10.08.177, 10.08.235, 10.08.250 AND 10.08.300 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO RIGHT-OF-WAY AND EASEMENT USE PERMITS, IN GENERAL.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 10.08.010 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Definition.”** For the purposes of this chapter, the following words and phrases shall have the following meanings:

- (a) “Easement Use Permit” means a permit to use the area on, under, or over dedications, or easements acquired by the City, separate and distinct from the general public use of such easements or dedications.
- (b) “Point-to-Point Agreement” means a license to use the area on, under, or over public sidewalks, streets, alleys, public rights of way, or other municipally owned property where the applicant is not the owner or lessee of the adjacent private property and the applicant does not qualify as a utility operating under a franchise granted by the City.
- (c) “Right-of-Way Use Permit” means a license to use the Right of Way. As used in this chapter, the term shall not apply to the short-time use of public space in connection with building construction that is regulated by the building code as set out by Article 2 of the Wichita-Sedgwick County Unified Building and Trade Code, nor shall it apply to a public utility operating under a franchise granted by the City, nor shall it apply when the City Engineer determines a permit is not necessary.

(d) “Use Permit” is a Right-of-Way or Easement Use, not including a temporary Use of Street Permit.

SECTION 2. Section 10.08.020 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Subject to regulations and permits as contained in this Chapter.”** Use Permits and Point-to-Point Agreements shall be subject to regulations and permits as set forth in this Chapter.

SECTION 3. Section 10.08.030 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“List of existing permits and Permittees to be kept—Information to be shown.”** The City Engineer shall make a list of all existing Use Permits and Point-to-Point Agreements and the Permittees in possession thereof, arranged according to the street locations, together with all necessary data applicable to each Right-of-Way Use and Easement Use Permits, and Point-to-Point Agreements. The City Engineer shall have authority to call upon other City departments for assistance, at that other department’s expense, in compiling such lists and carrying into effect the provisions of this Chapter.

SECTION 4. Section 10.08.040 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Permits for new privileges—Application.”** Application for Use Permits shall be submitted to the City Engineer with appropriate drawings, plans or photographs attached. The application shall be made only by the owner of land that holds an easement; or owner or the owner’s agent of a property adjacent to a City owned easement, or the public Right of Way requested for use. The application shall contain a notarized certification that the owner or agent has the authority to bind the property.

SECTION 5. Section 10.08.050 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Same—Approval of application—Issuance.”** Upon approval of an application by the City Engineer, the applicant shall record the permit with the Office of the Register of Deeds of Sedgwick County in a form provided by the City. Upon payment of the requisite charges and copy of the permit as recorded, the permit shall be perfected. Such recording may be released by the City upon the satisfaction of the permit holder’s obligations under the permit. Permit and

application charges are non-refundable and shall not be pro-rated. The recording of the Use Permit may be waived in writing by the City Engineer.

SECTION 6. Section 10.08.060 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Same—Authority of City Engineer to renew permits.”** The City Engineer may renew permits on an annual basis upon payment of applicable fees and continuation in force of liability insurance for such permit.

SECTION 7. Section 10.08.070 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Liability of Permittee—To save and hold City harmless.”** It shall be a condition of any Use Permit that the Permittee shall save, defend, and hold the City harmless of any and all liability, claims or expenses of any kind caused by, or growing out of, the construction, maintenance, operation, relocation, discontinuance or abatement of such use of the Right of Way or easement.

In the event that any public utility within the easement is planned or requires repair and/or maintenance and the same construction or repair is determined by the City to be impossible or impractical due to the presence of the Encroachment, the owner or Permittee shall be obligated to (a) allow the City to remove or damage any structure on the easement at the owner’s or Permittee’s sole expense; (b) remove the Encroachment; or (c) pay all additional costs required to accommodate the Encroachment. If the owner or Permittee wishes to remove the Encroachment, the owner or Permittee must do so within thirty (30) days of notification of the planned activities.

SECTION 8. Section 10.08.080 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Same—Requirements as to liability insurance.”** Whenever the construction, maintenance or abandonment of a Use Permit is attended with the possibility of damage or loss to the City, to other property owners, or to members of the public, the applicant for such permit shall furnish and file with the City Engineer’s Office proof of liability insurance in a minimum coverage amount of three hundred thousand (300,000) dollars per occurrence. Such insurance policy shall name the City as an additional insured and provide that the City will be given ten (10) days prior notice of cancellation.

SECTION 9. Section 10.08.081 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Same—Exceptions to liability insurance requirements.”** Liability insurance will not be required for underground irrigations systems, plants, monitoring wells, easement encroachment, or as determined by the City Engineer. Notwithstanding this provision, no object of any type shall be allowed in the Right of Way if determined to be a sight hazard by the City Traffic Engineer.

SECTION 10. Section 10.08.090 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Emergency repair or restoration of Easement or Right of Way.”** If the condition of any easement or Right of Way is deemed by the City Engineer to require immediate repair or restoration, the cost of all work, including but not limited to the cost of construction, maintenance, repair, operation, relocation, discontinuance, or abandonment, utility work, or any other effort or cost, regardless of nature, required to restore the easement or Right of Way shall be paid by the owner, adjacent property owner, and/or Permittee.

SECTION 11. Section 10.08.100 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Termination by the City for failure to pay permit fee—Notice to Permittee.”** If any Permittee fails to pay the annual fee, with accrued penalties, for any Use Permit within thirty (30) days after the same is due, the City Engineer shall terminate the Use Permit and cause a notice of termination to be mailed to the owner of record.

SECTION 12. Section 10.08.110 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Same—Permittee to arrange for restoration of property.”** Upon termination of a permit, the Permittee shall make all necessary arrangements for the discontinuance and abandonment of the Encroachment and make or cause restoration of the property, as approved by the City Engineer. All costs associated with removal of the Encroachment and restoration of the property will be paid by the owner or Permittee.

SECTION 13. Section 10.08.120 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Same—Failure of Permittee to make restoration—Work to be done by City—Cost.”** If the Permittee fails to make arrangements as required by the preceding section, the City Engineer is authorized to perform the necessary work and charge that expense to the Permittee. In addition

to the above cost, the Permittee shall be charged with proportionate permit fees for the period up to the date on which the work or restoration is completed.

SECTION 14. Section 10.08.130 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Unauthorized Use of Permit in the Easement or Right of Way, penalties.”** The use of easement or Right of Way beyond that specified in the Use Permit is a misdemeanor.

Notwithstanding any other provision or ordinance, any Person making use of the easement or Right of Way without a Use Permit when required under this Chapter waives any and all claims for damages or loss, whether civil or criminal in nature, to the unpermitted object.

SECTION 15. Section 10.08.135 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Notice of Abandonment; consequences.”** Any object placed or remaining in the easement or Right of Way without a required Use Permit shall be deemed abandoned and subject to removal after thirty (30) days’ notice by certified mail to the owner of record. Notwithstanding any other provision or ordinance, no criminal or civil action may be maintained for the taking of or damage to such abandoned property.

SECTION 16. Section 10.08.140 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Control and supervision by City Engineer—Generally.”** When the public safety or welfare shall require the temporary or permanent discontinuance or modification of a permit, the City Engineer shall take all actions necessary for the public interest.

SECTION 17. Section 10.08.150 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Same—Rules and regulations.”** The City Engineer is authorized to prepare and enforce reasonable rules and regulations to govern the carrying out of the provisions of this Chapter.

SECTION 18. Section 10.08.160 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Revocation of permit; fees non-refundable.”** All Use Permits provided for in this Chapter are revocable without refund or compensation to the Permittee.

SECTION 19. Section 10.08.170 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Annual permit fees for non-residential properties—Established.”** Any applicant desiring a Use Permit, shall, upon approval of application, pay a fee as required in Section 10.34.030.

SECTION 20. Section 10.08.175 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Same—Annual permit fees for residential properties—Established.”** Any Permittee desiring a Use Permit for use by a single-family residence shall, upon approval of application, pay a fee as required by Section 10.34.030.

SECTION 21. Section 10.08.176 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Water vaults in public Rights of way and easements prohibited.”** Notwithstanding any other ordinance, provision, or directive, new vaults shall not be installed in the public Right of Way unless technically infeasible to be placed on private property. Any new vault installed in the Right of Way due to technical infeasibility shall have, in every circumstance, a Use Permit issued.

SECTION 22. Section 10.08.177 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Water vaults and lines in public Rights of way and easements.”**

The Permittee shall be responsible for any maintenance or repairs on water vaults or domestic or fire lines on public property from the property line to, but not including, the first valve located on public Right of Way. In no case, however, shall the City be responsible for repairs or maintenance closer than six (6) feet from the supply-side exterior of the vault wall. The City may maintain, at its discretion, the water meter, pipe, and fittings between and including the inlet and outlet valves. The City Engineer will determine the location of the water valve(s) during the plan review process.

SECTION 23. Section 10.08.180 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Processing charge—Designated—Required when.”** Any Use Permit authorized under this Chapter shall require payment of a processing charge as listed in Section 10.34.010.

SECTION 24. Section 10.08.190 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Same—In addition to inspection, construction and other permit fees.”** All processing charges and annual fees established for Use Permits shall be separate from and in addition to inspection, construction or other fees or charges.

SECTION 25. Section 10.08.200 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Fees—Payment and disposition.”** Permit fees and processing charges, except for existing uses, shall be payable in advance prior to the issuance of the annual permit and shall be for a term of one (1) year. The renewed permit shall be evidenced by the receipt of the annual permit.

SECTION 26. Section 10.08.210 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Same—Exception.”**

- (a) With the exception of the processing charge as set forth in Section 10.08.180, no annual permit fee shall be paid for a Use Permit when the granting of such permit is coupled with and is a part of the public requirement or consideration for the taking of land by the City in connection with the City's approval of a plat or lot split.
- (b) The processing charge shall accompany the application when a waiver of annual permit fee is requested. The application for a Use Permit shall state the reasons for the waiver and shall be accompanied by drawings, plans, or photographs showing all Encroachments and describing their nature and specifications. Upon the approval of the Use Permit by the City Engineer, the appropriate drawings, plans or photographs shall be made a part of the permit, and the recipient of the Use Permit, by acceptance of the Use Permit, shall be obligated to indemnify the City for any and all costs of removal of any unauthorized improvements not constructed according to the documents submitted and approved or not included in the Use Permit.
- (c) With the exception of the processing charge as set forth in Section 10.08.180, no annual permit fee shall be charged when the City Engineer determines the project to be one involving public safety, public beautification or improvement of public property for public purposes.
- (d) With the exception of the processing charge as set forth in Section 10.08.180, no annual permit fee shall be charged for underground sprinkler systems or surface treatment on standard drive approaches.



- (e) With the exception of the processing charge as set forth in Section 10.08.180, no annual permit fee shall be charged for test/monitoring/recovery wells for a governmental agency.
- (f) With the exception of the processing charge as set forth in Section 10.08.180, the annual fee for an easement encroachment may be waived by the City Engineer.
- (g) Any Person aggrieved by the action of the City Engineer may appeal this ruling on the waiver to the City Council by requesting a hearing before the Council within thirty (30) days of notification of the decision of the City Engineer.

SECTION 27. Section 10.08.220 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Same—Penalty for failure to pay when due.”** All Use Permits not paid within thirty (30) days after the due date shall be subject to a penalty of ten (10) percent of the amount of the permit fee, and ten (10) percent of the amount of the permit fee shall be added for each additional thirty (30) days from the due date.

SECTION 28. Section 10.08.230 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Limitations on new Encroachments.”**

Nothing in this Chapter shall require the issuance of a Use Permit for an Encroachment not otherwise authorized under this Code.

SECTION 29. Section 10.08.235 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Mailboxes.”** For the purposes of this Chapter, mailboxes complying with the United States Postal Service (USPS) requirements and the American Association of State Highway and Transportation Officials’ (AASHTO’s) “A Guide for Erecting Mailboxes on Highways,” 1994, et. sec, do not require a Right-of-Way Use Permit. Any mailbox not complying with the applicable USPS regulations or the AASHTO Guide, including but not limited to, masonry structures, railroad ties, or similar hazards, shall be unlawful; and the City or any City agent shall not be subject to liability for any claims arising from any non-compliant mailbox installation. The City retains its authority to remove or raze a non-compliant mailbox installation without compensation to the owner. The costs of removal shall be billed to the property owner. If such costs are not paid within ninety (90) days, such costs shall be assessed against the property.

SECTION 30. Section 10.08.240 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Right of City to criminal action; restoration.”** It shall be unlawful for any Permittee to fail to restore the easement or the Right of Way within thirty (30) days of notice. Any Permittee failing to restore after thirty (30) days shall be issued a criminal complaint under the authority of the City Engineer or designee, or any City police officer.

SECTION 31. Section 10.08.250 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Failure to obtain, maintain, or renew permit.”** If any Permittee fails to obtain, maintain, or renew a Use Permit, the City shall have the right to remove and dispose of any Encroachment on the easement or Right of Way. If the Encroachment is not an immediate hazard or nuisance, the Permittee may be given thirty (30) days written notice prior to the Encroachment’s removal. No compensation for the value of any Encroachment removed by the City shall be given under any circumstances. No civil or criminal action may be maintained against any party for the removal of an Encroachment that does not have a valid Use Permit. Any Encroachment existing on the easement or Right of Way without a valid Use Permit, for which the City Engineer has issued a notice to remove by certified mail, after thirty (30) days is deemed abandoned property, which may be disposed of by any party without recourse by any claimant.

SECTION 32. Section 10.08.300 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Use of Street Permit.”** Any Person desiring to temporarily use a street, sidewalk, or alley shall obtain a Use of Street Permit, subject to the approval of the City Traffic Engineer, for which a fee shall be charged as listed in Section 10.34.010, and, in addition, shall pay for the use of such space, a fee per square foot per day as listed in Section 10.34.010.

SECTION 33. The original of Sections 10.08.010, 10.08.020, 10.08.030, 10.08.040, 10.08.050, 10.08.060, 10.08.070, 10.08.080, 10.08.090, 10.08.100, 10.08.110, 10.08.120, 10.08.130, 10.08.140, 10.08.150, 10.08.160, 10.08.170, 10.08.180, 10.08.190, 10.08.200, 10.08.210, 10.08.220, 10.08.230, AND 10.08.240 of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 34. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official City paper.

PASSED by the governing body of the City of Wichita, Kansas this 26th day of April, 2016.

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Jeff Longwell, Mayor

ATTEST:

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Karen Sublett, City Clerk

Approved as to Form:

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Jennifer Magaña  
Director of Law and City Attorney

## CERTIFICATE

I hereby certify that the foregoing is a true and correct copy of the original ordinance; that said Ordinance was passed on \_\_\_\_\_, 2016; that the record of the final vote on its passage is found on page \_\_\_\_ of journal \_\_\_\_; and that the Ordinance was published in ***The Wichita Eagle*** on \_\_\_\_\_, 2016.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Karen Sublett, City Clerk

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## DELINEATED

### **Section 10.08.010**

**“Definition.”** ~~For the purposes of this chapter, the following words and phrases, when used in this chapter, shall, for the purposes of this chapter, have the following meanings respectively ascribed to them in this section:~~

- (a) ~~“Minor use privilege”~~ “Easement Use Permit” means ~~any authorized or permitted private right a permit to use the area in, on, under or over dedications, or easements acquired by the City for drainage purposes, separate and distinct from the general public use of such easements or dedications acquired for drainage purposes.~~
- (b) “Point-to-Point Agreement” means a license to use the area on, under, or over public sidewalks, streets, alleys, public rights of way, or other municipally owned property where the applicant is not the owner or lessee of the adjacent private property and the applicant does not qualify as a utility operating under a franchise granted by the City.
- (c) ~~“Right-of-Way Use Permit~~ Minor street privilege” means a license to use the Right of Way. ~~any authorized or permitted private right in, on, under or over public streets, alleys or ways, separate and distinct from the general public use of streets, alleys and ways. As used in this chapter, the term shall not apply to the short-time use of public space in connection with building construction which that is regulated by the building code as set out in Title 18 of this by Article 2 of the Wichita-Sedgwick County Unified Building and Trade Code, nor shall it apply to a public utility operating under a franchise granted by the eCity, nor shall it apply when the City Engineer determines a permit is not necessary. to hitching posts that are in existence and in place prior to the date this section of the code becomes effective, and where the hitching post is specifically designed for the purpose of hitching horses thereto.~~

- (a) “Use Permit” is a Right-of-Way or Easement Use, not including a temporary Use of Street Permit.

*(Ord. No. 40-060 § 1)*

### **Section 10.08.020**

**“Subject to regulations and permits as contained in this chapter.”** ~~The enjoyment and use of minor street and minor use privileges by the permittee for private purposes, as hereinafter set~~

~~forth in this chapter,~~Right-of-Way Use Permits, Easement Use Permits, and Point-to-Point Agreements shall be subject to regulations and permits as set forth in this chapter.

~~(Ord. No. 40-060 § 2)~~

#### **Section 10.08.030**

**“List of existing ~~privileges~~permits and ~~p~~Permittees to be kept—Information to be shown.”** ~~The director of operations and maintenance~~City Engineer shall make a list of all existing ~~minor—street~~Right-of-Way Use Permits, Easement Use Permits, and Point-to-Point Agreements~~minor use privileges~~ and the permittees in possession thereof, arranged according to the street locations, together with all necessary data applicable to each Right-of-Way Use and Easement Use Permits, and Point-to-Point Agreements~~minor street and minor use privilege~~. ~~The director of operations and maintenance shall cause the same to be filed with the city treasurer and city clerk.~~ ~~The director of operations and maintenance~~City Engineer shall have authority to call upon other ~~e~~City departments for assistance, ~~at that other department’s expense,~~ in compiling such lists and carrying into effect the provisions of this chapter.

~~(Ord. No. 40-060 § 3)~~

#### **Section 10.08.040**

**“Permits for new ~~privileges~~—Application.”** Application for ~~any new minor street~~Use or minor use privilegesPermits shall be submitted to the ~~director of operations and maintenance~~City Engineer ~~by letter~~ with appropriate drawings, plans or photographs attached. The application shall be made only by the owner of the land that holds an easement; or owner or the owner’s agent ~~lessee of adjacent land or the homeowners association, which includes the owner or owners of the private~~ a property adjacent the to a City owned easement, or the public ~~Right of w~~Way requested for use; The application shall contain a notarized certification that the owner or agent has the authority to bind the property. ~~provided that a minor street or minor use privileges permit issued to a lessee shall in no event extend beyond the termination date of the lease under which said adjacent property is being leased and provided further, that said minor street or minor use privilege permit shall be automatically canceled if the lessee's lease is terminated prior to the termination date set forth in the permit.~~

~~(Ord. No. 40-060 § 4)~~

#### **Section 10.08.050**

~~“Same—Approval of application—Issuance.”~~ On Upon approval of the application by the City Engineer, the applicant shall record the permit with the Office of the Register of Deeds of Sedgwick County in a form provided by the City. ~~for a minor street privilege referred to in the preceding section by the director of operations and maintenance, or on approval of the application for a minor use privilege referred to in the preceding section by the director of operations and maintenance, and u~~ Upon payment of the ~~requisitered~~ fees charges and copy of the permit as recorded, ~~thea~~ permit shall be ~~perfected~~ issued by the director of operations and maintenance. Such recording may be released by the City upon the satisfaction of the permit holder’s obligations under the permit. Permit and application charges are non-refundable and shall not be pro-rated. The recording of the Use Permit may be waived in writing by the City Engineer.

~~(Ord. No. 40-060 § 5)~~

#### **Section 10.08.060**

~~“Same—Authority of director of operations and maintenance~~ City Engineer to grant renewal of permits previously issued.” The ~~director of operations and maintenance~~ City Engineer may ~~grant renewals of permits previously granted under the provisions of this chapter on an annual basis upon the payment of annual permit~~ grant renewals of permits previously granted under the provisions of this chapter on an annual basis upon the payment of annual permit ~~applicable fees to the city treasurer and continuation in force of surety bond and/or liability insurance for such permit renewals unless the city council of the city shall direct that no such renewals shall be issued.~~

~~(Ord. No. 40-060 § 6)~~

#### **Section 10.08.070**

~~“Liability of p~~ Permittee—To save and hold e City harmless.” It shall be a condition of ~~the use or enjoyment of any minor street or minor use privilege~~ Use Permit that the ~~p~~ Permittee shall save, defend, and hold the ~~e~~ City harmless of any and all liability, claims or expenses of any kind caused by, or growing out of, the construction, maintenance, operation, relocation, discontinuance or abatement of such ~~minor street or minor use~~ of the Right of Way or easement ~~privileges.~~

In the event that any public utility within the easement is planned or requires repair and/or maintenance and the same construction or repair is determined by the City to be impossible or impractical due the presence of the Encroachment, the owner or Permittee shall be obligated to (a) allow the City to remove or damage any structure on the easement at the owner’s or Permittee’s sole expense; (b) remove the Encroachment; or (c) pay all additional costs required to

accommodate the Encroachment. If the owner or Permittee wishes to remove the Encroachment, the owner or Permittee must do so within thirty (30) days of notification of the planned activities.

*(Ord. No. 40-060 § 7)*

#### **Section 10.08.080**

**“Same—Requirements as to bond or liability insurance.”** ~~Whenever, in the opinion of the director of operations and maintenance, the construction, maintenance or abandonment of a minor street or minor use privilege~~Use Permit is attended with the possibility of substantial damage or loss to the eCity, to other property owners, or to members of the public, the applicant for such ~~minor street or minor use privilege~~permit shall furnish and file with the ~~city clerk~~City Engineer’s Office ~~a surety bond or provide proof of liability insurance that names the city as an additional insured and provides that the city will be given ten days prior notice of cancellation in an~~ a surety bond or provide proof of liability insurance that names the city as an additional insured and provides that the city will be given ten days prior notice of cancellation in an minimum coverage amount of three hundred thousand (300,000) dollars per occurrence. ~~determined by the director of operations and maintenance to be sufficient to protect against such damage or loss;~~ provided, however, that in all cases where previous special privileges for the use of streets and public places as provided for in this chapter have been granted by ordinance or resolution by the city council and bond has been posted or proof of Such insurance policy~~provided under such ordinance, such bond shall continue in effect under the provisions of this chapter unless canceled by the surety upon such bond~~ name the City as an additional insured and provide that the City will be given ten (10) days prior notice of cancellation..

*(Ord. No. 40-060 § 8)*

#### **Section 10.08.081**

**“Same—Exceptions to liability insurance requirements.”** Liability insurance will not be required for underground irrigations systems, plants, monitoring wells, easement encroachment, or as determined by the City Engineer. Notwithstanding this provision, no object of any type shall be allowed in the Right of Way if determined to be a sight hazard by the City Traffic Engineer.

#### **Section 10.08.090**

**“Emergency repair or Rrestoration of Easement or Right of Waystreets, etc.—Cost.”** If the condition of any easement or Right of Way is deemed by the City Engineer to require immediate repair or restoration, Tthe cost of all restorationwork, all adjustments including but not limited to the cost of ~~connection with all utilities and all other adjustments made necessary by the construction, maintenance, repair, operation, relocation, discontinuance, or abandonment,~~ utility



~~work, or any other effort or cost, regardless of nature, required to restore the Right of Way of any minor street or minor use privilege shall be paid by the owner, adjacent property owner, and/or pPermittee. All such restoration and other necessary work of adjustment shall be performed in accordance with the provisions of this Code and other ordinances, or in the absence of a regulatory ordinance, shall, at the option of the director of operations and maintenance, be performed by the permittee or by the city at the permittee's expense from funds deposited with the city by the permittee as provided for under the provisions of this chapter.~~

~~(Ord. No. 40-060 § 9)~~

#### **Section 10.08.100**

**“Termination by the eCity for failure to pay permit fee—Notice to permittee.”** ~~In case~~ If any permittee ~~shall fails~~ to pay the annual permit fee, with accrued penalties, for any ~~minor street or minor use privilege~~ Use Permit within thirty (30) days after the same ~~shall be~~ is due and payable, the ~~director of operations and maintenance~~ City Engineer shall ~~terminated~~ declare the privilege and ~~permission~~ permit terminated and shall immediately cause a notice of termination to be mailed to the owner of record. ~~given the permittee.~~

~~(Ord. No. 40-060 § 10)~~

#### **Section 10.08.110**

**“Same—Permittee to arrange for discontinuance and make restoration of property.”** Upon termination of a ~~permit~~ privilege, ~~under the provisions of this chapter,~~ the ~~director of operations and maintenance~~ shall notify the pPermittee to shall make all necessary arrangements for the discontinuance and abandonment of the ~~privilege~~ Encroachment and make or cause restoration of the ~~public~~ property, as approved by the City Engineer ~~all in accordance with the provisions of this chapter.~~ All costs associated with removal of the Encroachment and restoration of the property will be paid by the Permittee.

~~(Ord. No. 40-060 § 11)~~

#### **Section 10.08.120**

**“Same—Failure of pPermittee to make restoration—Work to be done by eCity—Cost.”** If the pPermittee ~~shall fails~~ to make arrangements ~~promptly~~, as required by the preceding section, the ~~director of operations and maintenance~~ City Engineer is authorized to perform the necessary work and charge ~~that~~ expense ~~thereof~~ to the pPermittee. In addition to the above cost, the

~~p~~Permittee shall be charged with proportionate permit fees for the period up to the date on which the work or restoration is completed.

~~(Ord. No. 40-060 § 12)~~

#### **Section 10.08.130**

**“UnlawfulUnauthorized uUse of privilegesPermit in the Easement or Right of Way, penalties.”** ~~It is unlawful for any person to make any use of a minor street or minor use privilege unless permission for such use has been authorized in accordance with the provisions of this chapter, and the use of any minor street or minor use privilege is prohibited unless the permit fee is paid as provided in this chapter.~~

The use of easement or Right of Way beyond that specified in the Use Permit is a misdemeanor.

Notwithstanding any other provision or ordinance, any Person making use of the easement or Right of Way without a Use Permit when required under this Chapter waives any and all claims for damages or loss, whether civil or criminal in nature, to the unpermitted object.

~~(Ord. No. 40-060 § 13)~~

#### **Section 10.08.135**

**“Notice of Abandonment; consequences.”** Any object placed or remaining in the easement or Right of Way without a required Use Permit shall be deemed abandoned and subject to removal after thirty (30) days’ notice by certified mail to the owner of record. Notwithstanding any other provision or ordinance, no criminal or civil action may be maintained for the taking of or damage to such abandoned property.

#### **Section 10.08.140**

**“Control and supervision by eCity Engineermanager—Generally.”** ~~Except as otherwise provided in this chapter, When the public safety or welfare shall require the city manager shall have full control of the supervision, inspection and regulation of minor street or minor use privileges. When the public safety or welfare shall require the temporary or permanent discontinuance or modification of a permitminor street or minor use privilege, he the City Engineer shall take all actions necessary for the public interest. If action by the board of commissioners shall be required, he shall advise the board of commissioners who shall cause the necessary legislation to be prepared.~~

*(Ord. No. 40-060 § 14)*

#### **Section 10.08.150**

**“Same—Rules and regulations.”** The eCity Engineer~~manager~~ is authorized to prepare and enforce reasonable rules and regulations to govern the carrying out of the provisions of this chapter.

*(Ord. No. 33-850 (part))*

#### **Section 10.08.160**

**“Revocation of privilege permit; and proration of permit fees non-refundable.”** All ~~minor street or minor use privileges~~ Use Permits provided for in this chapter are revocable without refund or compensation to the Permittee. Upon any such ~~minor street or minor use privilege~~ being revoked during a period of time which a permit fee has been paid, the city shall tender to the owner the annual fee paid on a pro rata basis as determined by the director of operations and maintenance.

*(Ord. No. 40-060 § 15)*

#### **Section 10.08.170**

**“Annual permit fees for non-residential properties—Established.”** Any ~~permittee~~ applicant desiring a ~~minor street or minor use privilege~~ Use Permit approved under the provisions of this chapter shall, upon approval of application, pay a fee as required in Section 10.34.030 by this section. The annual permit fees for minor street or minor use shall be as set forth in this section. The minimum annual permit fee for minor street or minor use privilege shall be twenty-five dollars.

- (1) ~~Scales for vehicles, docks or loading platforms, including steps and ramps, bridges from one building to another, buildings extended over or across and not supported by public property, ventilating and other ducts, roofs from one building to another, sidewalk elevators, coal holes, manholes and similar openings in, or structures on, under or over public property, per square foot of area occupied .....\$ 0.65~~
- (2) ~~Clock supported by public property, each, without advertising .....25.00~~
- (3) ~~Overhead hoist beams and cranes, each .....31.00~~
- (4) ~~Permanent flag poles supported by public property, each, (not permitted in footway) .....25.00~~
- (5) ~~Steps or landings on, under or over public property, per square foot .....12.50~~
- (6) ~~Tunnels for private use, per cubic foot .....20~~
- (7) ~~Tanks under public property, including necessary connection pipes and other appurtenances, per gallon capacity .....15~~

~~All tank installations shall be regulated by the provisions of the Uniform Fire Code, Uniform Building Code and the zoning ordinance of the city as adopted. No new tank installation shall be made, nor shall any tank now installed on, above or below public property be used for the storage of a commodity with a flash point below one hundred degrees Fahrenheit, closed cup tester.~~

~~(8) Vaults or subsurface spaces other than tunnels, per cubic foot .....0.05~~

~~The space shall be measured from the private property line to the outside of the wall enclosing the space and from the floor of the space to the traffic surface.~~

~~(9) Car tracks (private, not operated by common carrier), per lineal foot of tract .....2.50~~

~~(10) Pipe lines and conduits of one continuous length not exceeding five hundred feet in length and two feet in diameter (not public utilities), per lineal foot .....1.25~~

~~For each additional lineal foot .....15~~

~~(Over two feet in diameter not permitted except by special permission of the city council who shall determine the annual permit fee.)~~

~~(11) Wires (not public utilities), per lineal foot .....1.25~~

~~(12) Use of streets, alley or other public space including public space upon which buildings are located, not used in common with building construction (which is regulated by the building code set out in Title 18 of this Code):~~

~~(a) In the area bounded on the south by the centerline of Waterman Street, on the west by the centerline of Water Street, on the north by the centerline of Second Street, and on the east by the elevated tracks of the Wichita Union Terminal Railroad Company, and Atchison, Topeka and Santa Fe Railway Company per square foot .....65~~

~~(b) In the balance of the city, thirty cents per square foot for grants of a minor street or minor use privilege permit that will involve the use of five thousand square feet of land or less and a fee negotiated by the city manager, subject to the approval of the city council, for grants that will involve the use of more than five thousand square feet of land.~~

~~(13) Use of drainage dedications or easements for purposes such as gardens or fenced in areas, per square foot .....03~~

~~(14) Erection of signs, per square feet .....1.00~~

~~(15) Wells, either supply or discharge, on public property, including necessary connection pipes and appurtenances, each .....25.00~~

~~(Ord. No. 40-060 § 16)~~

#### **Section 10.08.175**

**“Same—Annual permit fees for residential properties—Established.”** Any permittee desiring a Use Permit for use by a single-family residence shall, upon approval of application, pay a fee as required by Section 10.34.030.

#### **Section 10.08.176**

**“Water vaults in public Rights of way and easements prohibited.”** Notwithstanding any other ordinance, provision, or directive, new vaults shall not be installed in the public Right of Way unless technically infeasible to be placed on private property. Any new vault installed in the Right of Way due to technical infeasibility shall have, in every circumstance, a Use Permit issued.

#### **Section 10.08.177**

**“Water vaults and lines in public Rights of way and easements.”** The Permittee shall be responsible for any maintenance or repairs on water vaults or domestic or fire lines on public property from the property line to, but not including, the first valve located on public Right of Way. In no case, however, shall the City be responsible for repairs or maintenance closer than six (6) feet from the supply-side exterior of the vault wall. The City may maintain, at its discretion, the water meter, pipe, and fittings between and including the inlet and outlet valves. The City Engineer will determine the location of the water valve(s) during the plan review process.

#### **Section 10.08.180**

**“Processing charge—Designated—Required when.”** Any ~~Use minor street or minor use privilege p~~Permit authorized under this chapter shall ~~be required to be accompanied by payment of an administrative processing fee~~charge as listed in Section 10.34.010 ~~of seventy dollars.~~

~~(Ord. No. 45-680 § 1; Ord. No. 41-115 § 1)~~

#### **Section 10.08.190**

**“Same—In addition to inspection, construction and other permit fees.”** All ~~permit~~processing charges and annual fees established for ~~the enjoyment of minor street or minor use privileges~~Use Permits shall be separated from and in addition to inspection, construction ~~and~~or other ~~permit fees or charges.~~

~~(Ord. No. 40-060 § 18)~~

## Section 10.08.200

**“Fees—Payment and disposition.”** Permit fees and administrative charges, except for existing uses, shall be payable in advance prior to the issuance of the annual permit, and shall be for a term of one year ~~(1) from the date of its issuance.~~ The renewed permit shall be evidenced by the receipt for payment of such fee in each successive year shall constitute a renewal of the annual permit. ~~All permit fees received under the provisions of this chapter shall be at once transmitted to the eCity tTreasurer, and the permit shall serve as a receipt. All fees received under the provisions of this chapter for minor street privileges shall be credited to the gas tax fund, and for minor use privileges shall be credited to the flood control fund.~~

*(Ord. No. 40-060 § 19)*

## Section 10.08.210

### **“Same—Exception.”**

- (a) With the exception of the administrative processing charge as set forth in Section 10.08.180, no annual permit fee shall be paid for a ~~minor street or minor use privilege~~ Use Permit when the granting of such ~~privilege permit~~ is coupled with and is a part of the public requirement or consideration for the taking of land by the eCity in connection with the eCity's approval of a plat or lot split.
- (b) The administrative processing charge shall accompany the application when a waiver of annual permit fee is requested. The application for a ~~minor street or minor use privilege~~ Use Permit shall state the reasons for the waiver; and shall be accompanied by drawings, plans, or photographs showing all Encroachments and describing their nature and specifications. Upon the approval of the ~~minor street or minor use privilege~~ Use Permit by the ~~director of operations and maintenance~~ City Engineer, the appropriate drawings, plans or photographs shall be made a part of the permit, and the recipient of the ~~minor street or minor use privilege~~ Use Permit, by its acceptance of the ~~minor street or minor use privilege~~ Use Permit, shall be obligated to indemnify the eCity for any and all costs of removal of any unauthorized improvements not constructed according to the documents submitted and approved or not included in the ~~minor street or minor use privilege~~ Use Permit.
- (c) With the exception of the processing charge as set forth in Section 10.08.180, ~~The no annual permit fee for minor street and minor use privilege, with the exception of the~~

~~administrative shall be charged as set forth in Section 10.08.180, may be waived by the director of operations and maintenance when the City Engineer determines the project to be one involving public safety, public beautification or improvement of public property for public purposes.~~

- ~~(d) No permit fee for the issuance of a minor street or minor use privilege shall be required to be paid for use of public right of way that has been fenced for private use prior to annexation by the city for a period of ten years from the date of enactment of this section of the code or for a period of ten years from the date of annexation of land wherein fence is located prior to annexation that is subsequent in time to the enactment of the ordinance codified in this section. A person making application for such minor street or minor use privilege shall comply with all other provisions of this chapter in obtaining a minor street or minor use privilege permit including the requirement to post a surety bond and/or provide proof of liability insurance that names the city as an additional insured. A person to be eligible for waiver of payment of fees herein must make application for a minor street or minor use privilege within six months of the date of enactment of this section of the code or within six months of subsequent annexation of land wherein fence is located prior to annexation.~~
- (d) With the exception of the processing charge as set forth in Section 10.08.180, no annual permit fee shall be charged for underground sprinkler systems or surface treatment on standard drive approaches.
- (e) With the exception of the processing charge as set forth in Section 10.08.180, no annual permit fee shall be charged for test/monitoring/recovery wells for a governmental agency.
- (f) With the exception of the processing charge as set forth in Section 10.08.180, the annual fee for an easement encroachment may be waived by the City Engineer.
- (g) Any person aggrieved by the action of the ~~director of operations and maintenance~~City Engineer may appeal this ruling on the waiver to the ~~eCity eCouncil~~ by requesting a hearing before the ~~eCouncil~~ within thirty (30) days of notification of the decision of the ~~City Engineer~~director of operations and maintenance.

~~(Ord. No. 40-060 § 20)~~

## **Section 10.08.220**

**~~“Same—Penalty for failure to pay when due.”~~** All ~~Use P~~permits not paid within thirty (30) days after the due date shall be subject to a penalty of ten (10) percent of the amount of the permit fee, and ten (10) percent of the amount of the permit fee shall be added for each additional thirty (30) days from the due date.

~~(Ord. No. 33-850 (part))~~

#### **Section 10.08.230**

##### **~~“Limitations on new Encroachments.”~~**

- ~~(a) All encroachments on public streets, alleys or ways shall continue to be regulated in accordance with all applicable laws, provisions of this Code and other ordinances and rules. Nothing in this chapter shall be construed to mean that permits for new encroachments will be issued when such encroachments conflict with such regulations.~~
- ~~(b) All encroachments on drainage dedications and easements acquired for drainage purposes shall continue to be regulated in accordance with all applicable laws, provisions of this Code and other ordinances and rules. Nothing in this chapter shall be construed to mean that permits for new encroachments will be issued when such encroachments conflict with such regulations~~require the issuance of a Use Permit for an Encroachment not otherwise authorized under this Code.

~~(Ord. No. 40-060 § 21)~~

#### **Section 10.08.235**

**“Mailboxes.”** For the purposes of this Chapter, mailboxes complying with the United States Postal Service (USPS) requirements and the American Association of State Highway and Transportation Officials’ (AASHTO’s) “A Guide for Erecting Mailboxes on Highways,” 1994, do not require a Right-of-Way Use Permit. Any mailbox not complying with the applicable USPS regulations or the AASHTO Guide, including but not limited to, masonry Structures, railroad ties, or similar hazards, shall be unlawful; and the City or any City agent shall not be subject to liability for any claims arising from any non-compliant mailbox installation. The City retains its authority to remove or raze a non-compliant mailbox installation without compensation to the owner. The costs of removal shall be billed to the property owner. If such costs are not paid within ninety (90) days, such costs shall be assessed against the property.

#### **Section 10.08.240**



**“Right of eCity to civilcriminal actions; to recover permit fees and cost of restoration.”**

It shall be unlawful for any Permittee to fail to restore the easement or the Right of Way within thirty (30) days of notice. Any Permittee failing to restore after thirty (30) days shall be issued a criminal complaint under the authority of the City Engineer or designee, or any City police officer. In addition to the penalty prescribed in Section 10.08.220, the city may recover in a civil action in any court of competent jurisdiction; the amount of the permit fees imposed and/or the actual cost of restoration. No property of such debtor shall be exempt from forced sale under any process of law for such indebtedness, except such exemptions as allowed by the Constitution, and the laws of this state.

*(Ord. No. 33-850 (part))*

### **Section 10.08.250**

**“Failure to obtain, maintain, or renew permit.”** If any Permittee fails to obtain, maintain, or renew a Use Permit, the City shall have the right to remove and dispose of any Encroachment on the easement or Right of Way. If the Encroachment is not an immediate hazard or nuisance, the Permittee may be given thirty (30) days written notice prior to the Encroachment’s removal. No compensation for the value of any Encroachment removed by the City shall be given under any circumstances. No civil or criminal action may be maintained against any party for the removal of an Encroachment that does not have a valid Use Permit. Any Encroachment existing on the easement or Right of Way without a valid Use Permit, for which the City Engineer has issued a notice to remove by certified mail, after thirty (30) days is deemed abandoned property, which may be disposed of by any party without recourse by any claimant.

### **Section 10.08.300**

**“Use of Street Permit.”** Any person desiring to temporarily use a street, sidewalk or alley shall obtain a Use of Street Permit, subject to the approval of the City Traffic Engineer, for which a fee shall be charged as listed in Section 10.34.010, and in addition, shall pay for the use of such space, a fee per square foot per day as listed in Section 10.34.010.

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FOOTNOTE(S):

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**Note**— *Prior Ordinance history: Ord. Nos. 13-959, 20-161, 27-453, 27-978, 28-138, 30-074, 32-781*

ORDINANCE NO. 50-178

AN ORDINANCE REPEALING SECTIONS 10.04.020, 10.04.105, 10.04.130 AND 10.04.160 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO STREETS AND SIDEWALKS IN THE RIGHT OF WAY, IN GENERAL.

AN ORDINANCE ADMENDING SECTIONS 10.04.010, 10.04.025, 10.04.030, 10.04.040, 10.04.050, 10.04.060, 10.04.070, 10.04.080, 10.04.100, 10.04.110, 10.04.120, 10.04.131, 10.04.132, 10.04.133, 10.04.134, 10.04.135, 10.04.140, 10.04.150, 10.04.170, 10.04.180, 10.04.190, 10.04.200, 10.04.210 AND 10.04.220 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO STREETS AND SIDEWALKS IN THE RIGHT OF WAY, IN GENERAL, AND REPEALING THE ORIGINALS THEREOF.

AN ORDINANCE CREATING SECTIONS 10.04.005, 10.04.055, 10.04.056, 10.04.057, 10.04.065, 10.04.125, 10.04.126, 10.04.127 AND 10.04.215 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO STREETS AND SIDEWALKS IN THE RIGHT OF WAY, IN GENERAL.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 10.04.005 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Definitions.”** For the purposes of Title 10, the following words and phrases shall have the following meanings:

- (a) “City Engineer” means the City of Wichita’s City Engineer or the City Engineer’s designee.
- (b) “Person” means any real person, firm, partnership, association, corporation, company or organization of any kind.
- (c) “Permittee” means the individual, corporation, business trust, partnership, association, or any other entity granted a current and valid permit.
- (d) “Encroachment” means any object that has mass, takes up space, or exists in the Right-of-way other than grass or living landscaping less than thirty-three (33) inches in height when measured from the elevation of the gutter pan of the street except as allowed by permit under a specific City ordinance.

- (e) "Right-of-Way" means the area of real property in which the City has a dedicated or acquired interest in the real property. It includes the area on, below, or above present or future streets, alleys, avenues, roads, highways, or other paths dedicated or acquired for public access. Typically, the Right-of-Way extends beyond paved surfaces and includes sidewalk, when present.
- (f) "Driveway" means a place on private property for the operation of automobiles and other vehicles.
- (g) "Drive approach" means an area, construction or facility in the Right-of-Way intended to provide access for vehicles from the roadway of a public street to private property, including the Curb return radius. For clarification, a Drive approach must provide access to something definite on private property, such as a parking area, Driveway or door at least seven (7) feet wide that was intended and used for the entrance of vehicles.
- (h) "Corner" means the point of intersection of the lines of two (2) street Curb faces extended into the street intersection.
- (i) "Curb" means a barrier at the edge of paved road or drive-way approach to allow a separation of water flow and those portions of the Right-of-Way not used for vehicular traffic.
- (j) "Curb return" means the portion of a Curb next to a Drive approach which includes the Curb return radius, or the ramp-type lug on commercial- or industrial-type pavements and which connects the Drive approach to the street Curb.
- (k) "Public place" means any public street, way, grounds, place, alley, sidewalk, park, square, plaza or any other property owned or controlled by any governmental agency in a governmental capacity.
- (l) "Excavation" means any opening in the surface or manipulation of the surface or subsurface of a Public place made in any manner whatsoever; except as authorized by the applicable governmental entity.
- (m) "Structure" means any pipe, conduit, duct, tunnel, manhole, vault, buried cable or wire, or any other object of any type whatsoever located on, above, or below the surface of any Public place.

SECTION 2. Section 10.04.010 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Leaving obstructions, etc., on Right-of-Way, etc.—permit required.”** It is unlawful to place or leave any obstruction of any kind upon or over the streets, Rights-of-way, or sidewalks of the City, including but not limited to, building materials, derricks, ropes, machinery, fences, wires, conduits, cables, gates, boxes, posts, planters, railroad ties, landscape timbers, rocks or boulders, without a written permit from the City Engineer and compliance with the current version of the Manual on Uniform Traffic Control Devices, including providing proper lighting and barricades. See Section 10.04.125 of this Code.

SECTION 3. Section 10.04.020 of the Code of the City of Wichita, Kansas, is hereby repealed.

SECTION 4. Section 10.04.025 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Removal of snow in the downtown business area.”**

(a) The owners, occupants or Persons in charge of any parcels of land located in the downtown business area shall remove and clear the sidewalks that abut said property of all accumulations of snow and ice. All accumulations of snow and/or ice from a storm shall be removed and cleared according to the following schedule:

1. For days other than Sundays or holidays;
  - a. If the storm ends on any day between eight (8) a.m. and noon, removal shall be accomplished by five (5) p.m. of the same day.
  - b. If the storm ends between noon of one day and eight (8) a.m. of the next day, removal shall be accomplished by the following noon.
2. For Sundays or holidays—;
  - a. If the storm ends between noon on a Saturday or a regular business day preceding a holiday and (8) eight (8) a.m. of the next regular business day, removal shall be accomplished by noon of said next regular business day.

For purposes of this Section, the definition of a regular business day shall be every day of the week except Sundays and holidays. The following days shall be defined as holidays for this Section:

1. Veteran's Day
2. Thanksgiving Day
3. Day after Thanksgiving
4. Christmas Day
5. New Year's Day
6. Martin Luther King Day
7. President's Day

For purposes of this Section, the definition of downtown business area shall be the following streets or street segments and shall include both sides of said streets unless designated otherwise.

1. Central from the east curblin of Waco to the west curblin of Topeka
2. Third from the east curblin of Waco to the west curblin of St. Francis
3. Second from the east curblin of Waco to the west curblin of St. Francis
4. First from the east line of the bridge over the Arkansas River to the west curblin of St. Francis
5. Douglas from the east line of the bridge over the Arkansas River to the west side of the elevated tracks
6. William from the east curblin of Main to the west curblin of St. Francis
7. English from the north and east property lines of Wichita to the west curblin of Emporia
8. Waterman from the east curblin of Water to the west curblin of Emporia
9. Waco from the north curblin of Douglas to the south curblin of First
10. The east side of Wichita from the north property line of First to the south curblin of Central
11. Water from the east curblin of Wichita to the north curblin of Douglas
12. Century II Drive from the south curblin of Douglas to the west curblin of Main
13. Main from the south curblin of Elm to the north curblin of Lewis
14. Market from the south curblin of Central to the north curblin of Lewis
15. Broadway from the south curblin of Central to the north curblin of Kellogg
16. Topeka from the south curblin of Third to the north curblin of Waterman
17. Emporia from the south curblin of Third to the north curblin of Waterman
18. St. Francis from the south curblin of Third to the north curblin of William

For purposes of this Section, the end of the snowstorm shall be the time that is designated as the end of the snow by the Director of the Department of Public Works & Utilities. The determination shall be based upon existing accumulations and conditions and the forecast from the United States Weather Service at Mid-Continent Airport, Wichita, Kansas, that no additional accumulations or measurable amounts of snow (one-half inch or more accumulating on the ground) will occur within the time period allowed for snow removal.

(b) The City Clerk shall give notice each year on the first day of November, December, January, February, March and April of the provisions of this Section to the owners, occupants or Persons in the possession of lots or pieces of land located adjacent to streets in the downtown business area of the City, by publication in the official newspaper of the following notice:

"Notice to property owners and Persons in charge of property. All property owners and Persons in charge or possession of any tracts, lots or pieces of land located adjacent to streets in the downtown business area of the City of Wichita, Kansas are hereby notified that all accumulations of snow and ice on sidewalks that abut said tracts, lots and pieces of land from a storm ending:

1. For days other than Sundays or holidays:
  - a. On any day between eight (8) a.m. and noon that have not been removed and cleared from said sidewalk by five (5) p.m.
  - b. On any day between noon of one day and eight (8) a.m. of the next day that have not been removed and cleared from said sidewalk by the following noon.
2. For Sundays or holidays:
  - a. Between noon on a Saturday or a regular business day preceding a holiday and eight (8) a.m. of the next regular business day that have not been removed and cleared from said sidewalk by the following noon shall thereafter be declared to be a nuisance and that unless the owner, occupant or Person in charge of any such property shall immediately abate the same by causing all accumulations of snow and ice and levy an assessment against the property for the cost of such abatement. For purposes of this Section, the definition of a regular business day shall be every day of the week except Sundays and holidays. The following days shall be defined as holidays for this Section:

1. Veteran's Day

2. Thanksgiving Day
3. Day after Thanksgiving
4. Christmas Day
5. New Year's Day
6. Martin Luther King Day
7. President's Day

For purposes of this Section, the definition of downtown business area shall be the following streets or street segments and shall include both sides of said streets unless designated otherwise.

1. Central from the east curbline of Waco to the west curbline of Topeka
2. Third from the east curbline of Waco to the west curbline of St. Francis
3. Second from the east curbline of Waco to the west curbline of St. Francis
4. First from the east line of the bridge over the Arkansas River to the west curbline of St. Francis
5. Douglas from the east line of the bridge over the Arkansas River to the west side of the elevated tracks
6. William from the east curbline of Main to the west curbline of St. Francis
7. English from the north and east property lines of Wichita to the west curbline of Emporia
8. Waterman from the east curbline of Water to the west curbline of Emporia
9. Waco from the north curbline of Douglas to the south curbline of First
10. The east side of Wichita from the north property line of First to the south curbline of Central
11. Water from the east curbline of Wichita to the north curbline of Douglas
12. Century II Drive from the south curbline of Douglas to the west curbline of Main
13. Main from the south curbline of Elm to the north curbline of Lewis
14. Market from the south curbline of Central to the north curbline of Lewis
15. Broadway from the south curbline of Central to the north curbline of Kellogg
16. Topeka from the south curbline of Third to the north curbline of Waterman
17. Emporia from the south curbline of Third to the north curbline of Waterman
18. St. Francis from the south curbline of Third to the north curbline of William



For purposes of this Section, the end of the storm shall be the time that is designated as the end of the snow by the Director of the Department of Public Works & Utilities of the City of Wichita.

(c) The Director of Public Works & Utilities shall cause all accumulations of snow and ice to be removed and cleared from sidewalks that abut any tracts, lots or pieces of land in the downtown business area that still exist on said property:

1. For days other than Sundays or holidays:
  - a. After five (5) p.m. of any day where the storm has ended between eight (8) a.m. and noon of that same day
  - b. After noon of a day where the storm has ended between noon of the immediately preceding day and eight (8) a.m. of the same day
2. For Sundays and holidays:
  - a. After noon on the first regular business day following a Sunday or holiday where the storm has ended between noon on a Saturday or a regular business day preceding a holiday and eight (8) a.m. of the first regular business day following the Sunday or holiday.

The charge for the removal and clearing of said snow shall be based on the length cleared per contiguous tract, lot or piece of property per separate ownership and shall be certified by the Director of Public Works & Utilities to the City Clerk, who shall cause such charges to be assessed against the particular lots or pieces of land which abut the sidewalks from which the snow and ice were removed and cleared. The schedule of charges are:

Length of Tract (ft.)	Charge
0'–50'	\$25.00
51'–100'	\$40.00
101'–150'	\$50.00
151'–200'	\$60.00

Over two hundred (200) continuous feet the cost shall be thirty (30) cents per foot with the distance rounded to the nearest ten (10) feet. Measurements shall

be taken on the sidewalk in front of or abutting each tract, lot, or piece of property where snow was removed and shall be based on a linear foot measurement.

(d) The notice provision for removal of snow as it is set out at Sections 10.04.110 and 10.04.120 of this Code shall not apply to the downtown business area.

SECTION 5. Section 10.04.030 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Raking or sweeping leaves, paper, etc., into gutters or drainage ditches.”** It is unlawful to rake, sweep or otherwise move leaves, grass, dirt, paper, debris, or any other material into the streets, gutters, drains or drainage ditches along the sides of any street or alley in the City.

SECTION 6. Section 10.04.040 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Placing snow on streets and sidewalks.”** It is unlawful to place snow or ice onto the sidewalks, streets or alleys of the City.

SECTION 7. Section 10.04.050 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Damage to Curbs or sidewalks.”** It is unlawful to damage Curbs, sidewalks, paved Rights-of-way or other public infrastructure. It shall be a defense to this Section if notice of such damage is provided to the City within twenty-four (24) hours and a notice of financial responsibility for the costs of any such damage is filed with the City Engineer within seventy-two (72) hours.

SECTION 8. Section 10.04.055 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Same—Repair by City; cost.”** When damage occurs as described in Section 10.04.050, if the offending party cannot be reasonably identified, the abutting property owner shall be charged the cost of repairs. The City Engineer may order and cause the reconstruction of such Curb, sidewalk, or other paved Right-of-Way or other public infrastructure.

SECTION 9. Section 10.04.056 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Same—Notice to repair the paved Right-of-Way.”** Before repairs occur under Section 10.04.055, the City Engineer or the City Engineer’s representative shall mail a notice, first-class

postage prepaid to the owner of record, and, if known, the Person causing the damage, directing that repairs be made within a specified timeframe and giving an opportunity and procedure for appeal.

SECTION 10. Section 10.04.057 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Same—Failure to comply with notice.”** After having been given notice under Section 10.04.056, if the damaged infrastructure is not repaired to current City specifications, the City Engineer or Engineer’s designee may cause such repairs to be performed. The expense of such repairs, including appropriate overhead, shall be charged against the Person causing the damage or, when such Person cannot be identified, to the abutting parcel owner. If the expense of such repairs is not paid within sixty (60) days, the cost of such repairs, including appropriate overhead, shall be assessed against the abutting parcel(s). Such expense shall be levied, certified and collected as a special assessment tax.

SECTION 11. Section 10.04.060 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Water running into streets, etc.”** It is unlawful to cause or allow any water or waste to be discharged into any street, sidewalk, avenue, alley, or Public place unless prevention of such drainage is deemed technically infeasible in writing by the City Engineer. This Section shall not apply to storm water runoff.

SECTION 12. Section 10.04.065 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Lawn irrigation; spraying of streets and sidewalks prohibited.”** It is unlawful to directly spray water from a sprinkler system onto any sidewalk or onto the traveled portion of any street.

SECTION 13. Section 10.04.070 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Congregating on sidewalks, visibility of traffic.”** No crowd, collection of persons, or any other obstruction shall be allowed upon the street Right-of-Way so as to impair vehicles’ sight triangles as defined by “A Policy on Geometric Design of Highways and Streets,” current edition, as published by the American Association of State Highway and Transportation Officials

(AASHTO). It is unlawful to violate the provisions of this Section or to refuse or fail to comply with the request of any police officer to move to clear such obstruction.

SECTION 14. Section 10.04.080 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Digging holes in public Right-of-Way.”** It is unlawful to dig in any Right-of-Way without a permit from the City Engineer-or to leave any holes under such permit in an unfilled, uncovered, unsafe, or unsightly condition.

SECTION 15. Section 10.04.100 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Sidewalks and Rights-of-way to be kept clean by abutting property owners or occupants.”** It is unlawful for the owner or occupant of any parcel to allow paint, soil, grass, leaves, sand, gravel, rocks, dirt, filth, mud, papers, stone, snow, ice, refuse, rubbish, or any other material to accumulate and/or grow over the abutting sidewalk, alley, or Right-of-Way.

SECTION 16. Section 10.04.105 of the Code of the City of Wichita, Kansas, is hereby repealed.

SECTION 17. Section 10.04.110 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Same—Notice to clean.”** Whenever any Person whose duty it is to keep clean the areas described in Sections 10.04.030, 10.04.040 or 10.04.100 fails to do so, the City Engineer or the City Engineer’s representative shall serve or cause to be served upon such Person a notice requiring such Person to comply with the requirements of Section 10.04.030, 10.04.040 or 10.04.100. Such notice may be served by mailing the same, postage prepaid and certified, to the owner of record.

SECTION 18. Section 10.04.120 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Assignment of Costs of Cleaning.”** The expense of any cleaning described in this Chapter, including appropriate overhead, shall be charged against the abutting parcel and levied, certified, and collected as a special assessment tax.

SECTION 19. Section 10.04.125 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Obstruction of streets, sidewalks and the public Right-of-Way; penalty.”**

- (a) It is unlawful to obstruct any street, alley, public area, public Right-of-Way or sidewalk in the City by depositing, piling, placing, maintaining, or allowing to remain thereon:
1. Any basketball hoop, hockey or soccer net, skateboard ramps, or any other type of goal or hoop;
  2. Any dumpsters or garbage containers larger than one hundred (100) gallons;
  3. Any boulder, rock, stone, or any other objects in excess of thirty (30) pounds in the aggregate;
  4. Any tree, plant, grass, or any other object more than thirty-three (33) inches above the lowest point of the gutter or street, whichever is lower in the sight triangle of any street, Driveway, or alley as defined by “A Policy on Geometric Design of Highways and Streets,” current edition, as published by the American Association of State Highway and Transportation Officials (AASHTO);
  5. Any storage device of any type weighing more than one hundred (100) pounds;
  6. Any filth, litter, or waste;
  7. Any goods, wares, signs, or merchandise;
  8. Any buildings, Structures, or fences;
  9. Any benches, seats or tables;
  10. Any wires, conduits, or cables;
  11. Any residential garbage bins except within twenty-four (24) hours of a scheduled solid waste removal.
  12. Any other object, regardless of nature, that the City Engineer or the City Engineer’s designee determines is unsafe.
- (b) Any object shall not be considered an obstruction of the public Right-of-Way under the following conditions:
1. The object is authorized by a community events permit issued pursuant to Chapter 3.11 of the Code of the City of Wichita;
  2. The object is authorized by a Right-of-Way use permit granted as provided in Chapter 10.08;
  3. The object is regulated as short-term building construction by the building code as defined in Title 18 of the Code of the City of Wichita, unless deemed a hazard by the City Engineer or the City Engineer’s designee;

4. The object is allowed under a valid franchise agreement issued to a utility for use of the Right-of-Way;
5. The object is allowed under a point-to-point agreement with the City of Wichita for the specific use of defined Right-of-Way limits when the franchisee does not own the abutting parcel;
6. Use of street permits issued to property owners or the property owner's designee for the use of the abutting Right-of-Way;
7. Permit granted for exhibiting goods, wares, or merchandise as provided in Section 10.04.131;
8. If the City Engineer or the City Engineer's designee determines that such object is not an obstruction.

SECTION 20. Section 10.04.126 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Same—Notice to remove obstructions; penalties.”**

- (a) Whenever any Person obstructs the Right-of-Way as described in Section 10.04.125, the City Engineer or the City Engineer's representative shall serve or cause to be served a notice upon such Person, and, if different, the owner of record of the property, requiring compliance within no more than (30) days of the date of such notice. Such notice(s) will be served through first-class mail, postage prepaid and certified, to the last known address of such Person(s) or by personal service.
- (b) Alternatively, City Engineer or the City Engineer's representative may authorize compliance through Section 10.04.125(b).
- (c) The City Engineer shall, without discretion, charge such Person with a Right-of-Way usage fee of two hundred (200) dollars per day for the time period such obstruction was in the Right-of-Way.

SECTION 21. Section 10.04.127 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Same—Failure to comply with notice; penalties.”**

- (a) If the Person noticed under Section 10.04.126 fails to comply with such notice, either through failure to remove the obstruction or failure to obtain compliance through

Section 10.04.125(b), the City Engineer or the City Engineer's representative shall take action to remove such obstruction forthwith.

- (b) When such Person noticed under Section 10.04.126 fails to remove such obstruction pursuant to the notice or fails to respond to the notice, such property shall be deemed abandoned after thirty (30) days. After thirty (30) days has passed since the date of the notice, this Section shall be considered a defense to theft, conversion, or destruction of such obstruction.
- (c) Any costs associated with the removal and/or storage of the obstruction shall be charged against the Person creating the obstruction or, when such Person cannot be identified, against the abutting property and such tax shall be levied, certified, and collected in the same manner as special assessment taxes for the repair and construction of sidewalks.
- (d) Any Person violating Section 10.04.126 is guilty of a misdemeanor, punishable by a fine not to exceed two thousand five hundred (2,500) dollars and incarceration for a period up to three (3) days. Every day said Person fails to comply with Section 10.04.126 shall constitute a separate and distinct offense.

SECTION 22. Section 10.04.130 of the Code of the City of Wichita, Kansas, is hereby repealed:

SECTION 23. Section 10.04.131 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Same—Permits and applicable procedure.”**

- (a) Upon application to the Metropolitan Area Building and Construction Department (MABCD) and approval by the City Manager, a permit for isolated sales may be issued to allow the location of stands, tables, racks and other devices for the sale and display of merchandise upon public sidewalks for a consecutive period not to exceed three (3) days annually. The application shall be referred to the City's Division of Traffic Engineering, MABCD, and the Fire Department for their recommendations and determination that the sidewalk sale activity will not endanger or unduly inconvenience the public.
- (b) Sidewalks used for the display and sale of goods under a permit for isolated sales must be located in non-residential zoning districts. The location of the display devices shall be made so that no more than one-half of the sidewalk area from front to back is

occupied by the display racks, etc., but in no case shall the unobstructed sidewalk area be less than four (4) feet; furthermore, the placement of the display racks, et cetera, shall be limited so that each merchant shall display the merchandise only within the area of the sidewalk which immediately abuts each merchant's business.

- (c) After application to the City Engineer's Office and upon notice and opportunity for comment from the public, a sidewalk café permit may be issued. Such permit will allow for the location of diverters, plantings, stands, tables, lighting, seating, devices for protection of patrons from the elements, and other devices for the sale and service of prepared meals and beverages. The sale, service and consumption of prepared meals and beverages including alcoholic liquor shall be allowed upon public sidewalks within the permitted area as provided under K.S.A. § 12-406a and K.S.A. § 41-719 (d). The application shall comply with the administrative requirements established by the City Engineer, and shall be referred to the City's Traffic Engineer, the MABCD and the Fire Department for their recommendations and determination that the sidewalk café operation as described in the application will not endanger or unduly inconvenience the public. If negative public comment is received, the City Engineer shall hold a public hearing and shall make a decision on the issuance of the permit. A permit denial may be appealed to the City Council in a writing delivered to the City Clerk within fifteen (15) days of the decision by the City Engineer.

SECTION 24. Section 10.04.132 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Same—Permit issuance.”**

On approval of the application and payment of the required fee under Section 10.04.131, the isolated sales or sidewalk café permit shall be issued by the MABCD or the City Engineer, respectively. This permit is in addition to any other license or permit required for the operation intended. The area encompassed by a valid sidewalk café permit may be included by the permit holder as part of the licensed premises submitted for any club or drinking establishment license issued by the State of Kansas. The encompassed area shall remain public Right-of-Way for the purposes of enforcement of municipal ordinances.

SECTION 25. Section 10.04.133 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:



**“Same—Permit renewal.”**

Renewals of permits may be granted upon payment of the annual permit fee and providing proof of liability insurance.

SECTION 26. Section 10.04.134 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Same—Liability of Permittee; hold city harmless and insure.”**

It shall be a condition of the permit that the Permittee shall defend and hold the City, and its employees and agents harmless of any claim or action of any type or kind caused by the Permittee or its employees or agents. The permit applicant shall provide evidence of liability insurance in a minimum coverage amount of five hundred thousand (500,000) dollars, naming the City of Wichita as additional insured. The insurance coverage must be in force for the duration of the permit, and provide coverage for all potential losses that could be incurred under the aforementioned defend and hold harmless obligation.

SECTION 27. Section 10.04.135 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Same—Revocation of permit.”**

The permits which may be granted under this Chapter are personal privileges which may be revoked by the issuing entity for violation of the ordinances in this Chapter, for violations of any regulations promulgated by the MABCD or City Engineer for the uniform administration of the permitting and renewal process, or for the health, welfare or safety of the public. The City Engineer shall establish policies governing the potential of reinstatement of the sidewalk café permit designed to discourage repeat offenses.

SECTION 28. Section 10.04.140 of the Code of the City of Wichita, Kansas, is hereby repealed.

**“Permit required to erect poles in streets.\*”**

It is unlawful for any Person to erect any poles for the support of any utility in any public street or alley in the City unless the owners or users of such pole first obtain from the City Council a permit for the privilege of erecting such poles.

SECTION 29. Section 10.04.150 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Utility Poles be marked.”**

Whenever poles are in the City Right-of-Way, or any other property of the City, the owner of such pole shall be required to mark the poles so that the City can distinguish to whom they belong. Any entity required to mark poles shall provide an electronic database of the pole locations, both GIS and street address, and identification numbers to the City Engineer. Such information shall include the date of installation, the wattage and type of a streetlight (if attached), and an emergency contact name and phone number to be updated regularly.

SECTION 30. Section 10.04.160 of the Code of the City of Wichita, Kansas, is hereby repealed.

SECTION 31. Section 10.04.170 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“House numbers—System to be used.”**

All houses and buildings, except accessory Structures, which have access to public or officially recognized private streets or ways, avenues and highways in the City shall be numbered and designated as follows:

1. STREETS, ETC., RUNNING NORTH AND SOUTH. On streets, avenues and highways running north and south, numbering shall commence with number 100 at the northeast and southeast comers and with number 101 at the northwest and southwest comers of each street at its intersection with Douglas Avenue and shall increase north and south at the rate of:
  - (a) 100 numbers for each block or space between two (2) streets; and
  - (b) One number for each twenty-foot (20) space along the building line of the street within each block with odd numbers being given to houses and buildings on the west side and even numbers to houses and buildings on the east side.
2. STREETS, ETC., RUNNING EAST AND WEST. On streets, avenues and highways running east and west, numbering shall commence with number 100 at the northeast and northwest comers and with number 101 at the southeast and southwest comers of each street at its intersection with Main Street and shall increase east and west at the rate of:
  - (a) 100 numbers for each block or space between two (2) streets; and

- (b) One number for each twenty-foot (20) space along the building line of the street within each block with odd numbers being given to houses and buildings on the south side and even numbers to houses and buildings on the north side.

SECTION 32. Section 10.04.180 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Same—Exceptions to system and correction of existing inconsistencies.”**

- (a) The City Engineer and the MABCD are authorized, empowered, and directed to make such exceptions to the numbering system as may be made necessary by the irregular routing of streets, avenues or highways, by the use of named private streets; or by any other circumstance under which application of the numbering system set forth in Section 10.04.170 is impossible or produces a result which is not consistent with the orderly and uniform numbering of houses and buildings.
- (b) The City Engineer and the MABCD are authorized, empowered, and directed to correct existing inconsistencies in house numbers assigned or otherwise in use by reassigning a street number consistent with Section 10.04.170 and 10.04.180 and requiring the property owner(s) to post such reassigned street numbers as provided in Section 10.04.190.

SECTION 33. Section 10.04.190 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Same—Duty of owner or occupant to place; size, etc.”**

The owner or occupant of every house or building in the City is required to conspicuously place on the house or building house numbers of at least four (4) inches in height. Painting house numbers on the Curb alone shall not be sufficient to comply with this Section.

Such numbers shall be consistent with Sections 10.04.170 and 10.04.180. Such numbers shall be of a sufficient contrast such that police officers and firefighters can read the numbers from the abutting street. Any property owner failing to comply with this Section is guilty of a misdemeanor. Each day house numbers are not properly placed on the house or building is a separate and distinct offence.

SECTION 34. Section 10.04.200 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Assignment of names to private streets.”**

(a) Any property owner may request that that portion of a private street running through said owner's property be named and that such name be officially recognized by the City. Such request shall be made to the Metropolitan Area Planning Department (MAPD) and shall be acted upon by the Director of the MAPD consistent with a policy of maintaining uniformity and consistency in the names of streets and the numbering of housing and buildings within the City so as to insure the ready and efficient location of houses and buildings by the Fire Department, Police Department, other emergency services and the public.

(b) In the event such a private street is named and such name is officially recognized by the City, it shall be the responsibility of the said property owner to erect and maintain a street sign or signs of the same type, size and color as street signs installed by the City on public streets. Such sign, by suffix or subsidiary sign element, shall identify the street by adding "Private Street." in a manner approved by the City Traffic Engineer.

(c) In the event the signs referred to in paragraph (b) above are not erected or maintained as provided in said subsection, the City is authorized to erect such signs and charge or assess the cost against the requesting party or parties or the abutting property owner or owners.

(d) When the name of a private street is officially recognized by the City and such street is not named and identified on the recorded subdivision within which it is located, it shall be the duty and responsibility of the Person requesting recognition of such named street to file with the register of deeds of Sedgwick County, Kansas, a copy of a site plan prepared with sufficient detail to locate such private street.

SECTION 35. Section 10.04.210 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**"Same—Appeal."**

Any applicant may appeal a decision by the Director of the MAPD refusing to approve the naming or numbering of a street to the Metropolitan Area Planning Commission (MAPC). Such appeal shall be in writing setting forth with sufficient particularity the decision being appealed and the reasons why such decision should be reviewed. Provided, however, no such appeal shall be considered by the MAPC unless written notice of the appeal is received by the MAPC no later than ten (10) days after the decision being appealed is made.

SECTION 36. Section 10.04.215 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Same—Enforcement.”**

The MABCD, the Wichita Fire Department, City Engineering, and the Wichita Police Department have the power to enforce any provision of this Section.

SECTION 37. Section 10.04.220 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Same—Penalty.”**

The failure of the owner or occupant of a house or building to comply with the provisions of Section 10.04.190 above shall constitute an offense punishable by a fine of not to exceed twenty-five hundred (2,500) dollars. Every day said owner or occupant fails to comply with said Section 10.04.190 shall constitute a separate and distinct offense.

SECTION 38. The original of Sections 10.04.010, 10.04.020, 10.04.025, 10.04.030, 10.04.040, 10.04.050, 10.04.060, 10.04.070, 10.04.080, 10.04.100, 10.04.105, 10.04.110, 10.04.120, 10.04.130, 10.04.131, 10.04.132, 10.04.133, 10.04.134, 10.04.135, 10.04.140, 10.04.150, 10.04.160, 10.04.170, 10.04.180, 10.04.190, 10.04.200, 10.04.210, and 10.04.220 of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 39. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official City paper.

PASSED by the governing body of the City of Wichita, Kansas this 26th day of April, 2016.

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Jeff Longwell, Mayor

ATTEST:

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Karen Sublett, City Clerk

Approved as to Form:

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Jennifer Magaña  
Director of Law and City Attorney

## CERTIFICATE

I hereby certify that the foregoing is a true and correct copy of the original ordinance; that said Ordinance was passed on \_\_\_\_\_, 2016; that the record of the final vote on its passage is found on page \_\_\_\_ of journal \_\_\_\_; and that the Ordinance was published in ***The Wichita Eagle*** on \_\_\_\_\_, 2016.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Karen Sublett, City Clerk

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## DELINEATED

### **Section 10.04.005**

**“Definitions.”** For the purposes of Title 10, the following words and phrases shall have the following meanings:

- (a) “City Engineer” means the City of Wichita’s City Engineer or the City Engineer’s designee.
- (b) “Person” means any real person, firm, partnership, association, corporation, company or organization of any kind.
- (c) “Permittee” means the individual, corporation, business trust, partnership, association, or any other entity granted a current and valid permit.
- (d) “Encroachment” means any object that has mass, takes up space, or exists in the Right-of-Way other than grass or living landscaping less than thirty-three (33) inches in height when measured from the elevation of the gutter pan of the street except as allowed by permit under a specific City ordinance.
- (e) “Right-of-Way” means the area of real property in which the City has a dedicated or acquired interest in the real property. It includes the area on, below, or above present or future streets, alleys, avenues, roads, highways, or other paths dedicated or acquired for public access. Typically, the Right of way extends beyond paved surfaces and includes sidewalk, when present.
- (f) “Driveway” means a place on private property for the operation of automobiles and other vehicles.
- (g) “Drive approach” means an area, construction or facility in the Right-of-Way intended to provide access for vehicles from the roadway of a public street to private property, including the Curb return radius. For clarification, a Drive approach must provide access to something definite on private property, such as a parking area, Driveway or door at least seven (7) feet wide that was intended and used for the entrance of vehicles.
- (h) “Corner” means the point of intersection of the lines of two (2) street Curb faces extended into the street intersection.
- (i) “Curb” means a barrier at the edge of paved road or drive-way approach to allow a separation of water flow and those portions of the Right-of-Way not used for vehicular traffic.

- (j) "Curb return" means the portion of a Curb next to a Drive approach which includes the Curb return radius, or the ramp-type lug on commercial- or industrial-type pavements and which connects the Drive approach to the street Curb.
- (k) "Public place" means any public street, way, grounds, place, alley, sidewalk, park, square, plaza or any other property owned or controlled by any governmental agency in a governmental capacity.
- (l) "Excavation" means any opening in the surface or manipulation of the surface or subsurface of a Public place made in any manner whatsoever; except as authorized by the applicable governmental entity.
- (m) "Structure" means any pipe, conduit, duct, tunnel, manhole, vault, buried cable or wire, or any other object of any type whatsoever located on, above, or below the surface of any Public place.

#### **Section 10.04.010**

**"Leaving ~~obstructions~~building materials, etc., on ~~Right-of-Way~~streets, etc.—Permit required."** ~~It is unlawful to~~Any person who places or leaves any obstruction of any kind upon or over the streets, Rights-of-way, or sidewalks of the City, including but not limited to, building materials, derricks, ropes, machinery, fences, wires, gates, boxes, posts, planters, railroad ties, landscape timbers, rocks or boulders,or other obstructions of any kind over or upon any of the streets, parkings or sidewalks of the city without a written permit from the Ceity Eengineer and compliance with the current version of the Manual on Uniform Traffic Control Devices, including providing proper lighting and barricades~~or of the superintendent of public works maintenance is guilty of a misdemeanor.~~ See Section 10.04.125.

*(Ord. No. 11-592 § 99 (part))*

#### **Section 10.04.020**

**"~~Same—Lights required at night.~~"** ~~Any person who, with the permit required by the preceding section, places or leaves any such building materials or other obstructions between the hours of sunset and sunrise upon any street, parking or sidewalk without maintaining at all times from sunset to sunrise one or more red lights properly lighted at each point of approach is guilty of a misdemeanor.~~

*(Ord. No. 11-592 § 99 (part))*



## Section 10.04.025

### “Removal of snow in the downtown business area.”

(a) The owners, occupants or ~~p~~Persons in charge of any ~~lots or pieces~~parcels of land located in the downtown business area shall remove and clear the sidewalks that abut said property of all accumulations of snow and ice. All accumulations of snow and/or ice from a storm shall be removed and cleared according to the following schedule:

1. For days other than Sundays or holidays—;
  - a. If the storm ends on any day between eight (8) a.m. and ~~twelve~~-noon, removal shall be accomplished by five (5) p.m. of the same day.
  - b. If the storm ends between noon of one day and eight (8) a.m. of the next day, removal shall be accomplished by the following twelve noon.
2. For Sundays ~~or~~ holidays—;
  - a. If the storm ends between ~~twelve~~-noon on a Saturday or a regular business day preceding a holiday and eight (8) a.m. of the next regular business day, removal shall be accomplished by ~~twelve~~-noon of said next regular business day.

For purposes of this ~~s~~Section, the definition of a regular business day shall be every day of the week except Sundays and holidays. The following days shall be defined as holidays for this ~~s~~Section:

1. Veteran’s Day
2. Thanksgiving Day
3. Day after Thanksgiving
4. Christmas Day
5. New Year's Day
6. Martin Luther King Day
7. President’s Day~~The observance of Washington's Birthday~~

For purposes of this ~~s~~Section, the definition of downtown business area shall be the following streets or street segments and shall include both sides of said streets unless designated otherwise.

1. Central from the east curbline of Waco to the west curbline of Topeka
2. Third from the east curbline of Waco to the west curbline of St. Francis
3. Second from the east curbline of Waco to the west curbline of St. Francis

4. First from the east line of the bridge over the Arkansas River to the west curblineline of St. Francis
5. Douglas from the east line of the bridge over the Arkansas River to the west side of the elevated tracks
6. William from the east curblineline of Main to the west curblineline of St. Francis
7. English from the north and east property lines of Wichita to the west curblineline of Emporia
8. Waterman from the east curblineline of Water to the west curblineline of Emporia
9. Waco from the north curblineline of Douglas to the south curblineline of First
10. The east side of Wichita from the north property line of First to the south curblineline of Central
11. Water from the east curblineline of Wichita to the north curblineline of Douglas
12. Century II Drive from the south curblineline of Douglas to the west curblineline of Main
13. Main from the south curblineline of Elm to the north curblineline of Lewis
14. Market from the south curblineline of Central to the north curblineline of Lewis
15. Broadway from the south curblineline of Central to the north curblineline of Kellogg
16. Topeka from the south curblineline of Third to the north curblineline of Waterman
17. Emporia from the south curblineline of Third to the north curblineline of Waterman
18. St. Francis from the south curblineline of Third to the north curblineline of William

For purposes of this sSection, the end of the snowstorm shall be the time that is designated as the end of the snow by the ~~d~~Director of the ~~d~~Department of pPublic wWorks & Utilities~~of the city~~. The determination shall be based upon existing accumulations and conditions and the forecast from the United States Weather Service at Mid-Continent Airport, Wichita, Kansas, that no additional accumulations or measurable amounts of snow (one-half inch or more accumulating on the ground) will occur within the time period allowed for snow removal.

(b) The City ~~e~~Clerk shall give notice each year on the first day of November, December, January, February, March and April of the provisions of this Section to the owners, occupants or ~~p~~Persons in the possession of lots or pieces of land located adjacent to streets in the downtown business area of the City, by publication in the official newspaper of the following notice:

"Notice to property owners and ~~p~~Persons in charge of property. All property owners and ~~p~~Persons in charge or possession of any tracts, lots or pieces of land located adjacent to

streets in the downtown business area of the City of Wichita, Kansas are hereby notified that all accumulations of snow and ice on sidewalks that abut said tracts, lots and pieces of land from a storm ending:

1. For days other than Sundays or holidays—;
  - a. On any day between eight (8) a.m. and ~~twelve~~ noon that have not been removed and cleared from said sidewalk by five (5) p.m.
  - b. On any day between noon of one day and eight (8) a.m. of the next day that have not been removed and cleared from said sidewalk by the following ~~twelve~~ noon.
2. For Sundays or holidays—;
  - a. Between noon on a Saturday or a regular business day preceding a holiday and eight (8) a.m. of the next regular business day that have not been removed and cleared from said sidewalk by the following ~~twelve~~ noon shall thereafter be declared to be a nuisance and that unless the owner, occupant or ~~p~~Person in charge of any such property shall immediately abate the same by causing all accumulations of snow and ice and levy an assessment against the property for the cost of such abatement. For purposes of this ~~s~~Section, the definition of a regular business day shall be every day of the week except Sundays and holidays. The following days shall be defined as holidays for this ~~s~~Section:
    1. Veteran's Day
    2. Thanksgiving Day
    3. Day after Thanksgiving
    4. Christmas Day
    5. New Year's Day
    6. Martin Luther King Day
    7. President's Day~~The observance of Washington's Birthday~~

For purposes of this ~~s~~Section, the definition of downtown business area shall be the following streets or street segments and shall include both sides of said streets unless designated otherwise.

1. Central from the east curbline of Waco to the west curbline of Topeka
2. Third from the east curbline of Waco to the west curbline of St. Francis

3. Second from the east curblin of Waco to the west curblin of St. Francis
4. First from the east line of the bridge over the Arkansas River to the west curblin of St. Francis
5. Douglas from the east line of the bridge over the Arkansas River to the west side of the elevated tracks
6. William from the east curblin of Main to the west curblin of St. Francis
7. English from the north and east property lines of Wichita to the west curblin of Emporia
8. Waterman from the east curblin of Water to the west curblin of Emporia
9. Waco from the north curblin of Douglas to the south curblin of First
10. The east side of Wichita from the north property line of First to the south curblin of Central
11. Water from the east curblin of Wichita to the north curblin of Douglas
12. Century II Drive from the south curblin of Douglas to the west curblin of Main
13. Main from the south curblin of Elm to the north curblin of Lewis
14. Market from the south curblin of Central to the north curblin of Lewis
15. Broadway from the south curblin of Central to the north curblin of Kellogg
16. Topeka from the south curblin of Third to the north curblin of Waterman
17. Emporia from the south curblin of Third to the north curblin of Waterman
18. St. Francis from the south curblin of Third to the north curblin of William

For purposes of this ~~s~~Section, the end of the storm shall be the time that is designated as the end of the snow by the Director of the Department of Public Works & Utilities of the City of Wichita."

(c) The ~~d~~Director of the ~~d~~Department of ~~p~~Public ~~w~~Works & Utilities shall cause all accumulations of snow and ice to be removed and cleared from sidewalks that abut any tracts, lots or pieces of land in the downtown business area that still exist on said property:

1. For days other than Sundays or holidays—;
  - a. After five (5) p.m. of any day where the storm has ended between eight (8) a.m. and ~~twelve~~ noon of that same day
  - b. After ~~twelve~~ noon of a day where the storm has ended between noon of the immediately preceding day and eight (8) a.m. of the same day

2. For Sundays and holidays—;

- a. After ~~twelve~~ noon on the first regular business day following a Sunday or holiday where the storm has ended between noon on a Saturday or a regular business day preceding a holiday and eight (8) a.m. of the first regular business day following the Sunday or holiday.

The charge for the removal and clearing of said snow shall be based on the length cleared per contiguous tract, lot or piece of property per separate ownership and shall be certified by the ~~d~~Director of the ~~d~~Department of ~~p~~Public ~~w~~Works & Utilities to the ~~e~~City ~~e~~Clerk, who shall cause such charges to be assessed against the particular lots or pieces of land which abut the sidewalks from which the snow and ice were removed and cleared. The schedule of charges shall be:

TABLE INSET:

<u>Length of Tract (ft.)</u>	<u>Charge</u>
0'–50'	\$25.00
51'–100'	\$40.00
101'–150'	\$50.00
151'–200'	\$60.00

Over two hundred (200) continuous feet the cost shall be thirty (30) cents per foot with the distance rounded to the nearest ten (10) feet. Measurements shall be taken on the sidewalk in front of or abutting each tract, lot, or piece of property where snow was removed and shall be based on a linear foot measurement.

- (d) The notice provision for removal of snow as it is set out at Sections 10.04.110 and 10.04.120 of this Code shall not apply to the downtown business area.

*(Ord. No. 36-369 § 1)*

**Section 10.04.030**

**“Raking or sweeping leaves, paper, etc., into gutters or drainage ditches.”** It is unlawful to~~The raking, sweeping or otherwise moving of leaves, grass, dirt, paper, and other debris, or any other material into the streets, gutters, drains or drainage ditches along the sides of any street or alley in the eCity, without removing the same immediately thereafter, is a misdemeanor.~~

*(Ord. No. 16-556 § 2)*

#### **Section 10.04.040**

**“Placing snow on streets and sidewalks.”** ~~The~~ It is unlawful to placing of snow or ice from areaways, driveways or other such areas onto the sidewalks, or in the traveled portion of the streets or alleys of the eCity, without removing the same immediately thereafter, is a misdemeanor.

*(Ord. No. 16-556 § 3)*

#### **Section 10.04.050**

**“~~Breaking of~~ Damage to Curbs or sidewalks.”** ~~The breaking of~~ It is unlawful to damage Curbs, or sidewalks, paved Rights-of-way or other public infrastructure, by driving trucks or other heavy equipment over them or in any other manner is a misdemeanor. It shall be a defense to this Section if notice of such damage is provided to the City within twenty-four (24) hours and a notice of financial responsibility for the costs of any such damage is filed with the City Engineer within seventy-two (72) hours.

*(Ord. No. 16-556 § 4)*

#### **Section 10.04.055**

**“~~Same—Repair by City; cost.~~”** When damage occurs as described in Section 10.04.050, if the offending party cannot be reasonably identified, the abutting property owner shall be charged the cost of repairs. The City Engineer may order and cause the reconstruction of such Curb, sidewalk, or other paved Right-of-Way or other public infrastructure.

#### **Section 10.04.056**

**“~~Same—Notice to repair the paved Right-of-Way.~~”** Before repairs occur under Section 10.04.055, the City Engineer or the City Engineer’s representative shall mail a notice, first-class postage prepaid to the owner of record, and, if known, the Person causing the damage, directing that repairs be made within a specified timeframe and giving an opportunity and procedure for appeal.

#### **Section 10.04.057**

**“~~Same—Failure to comply with notice.~~”** After having been given notice under Section 10.04.056, if the damaged infrastructure is not repaired to current City specifications, the City Engineer or the City Engineer’s designee may cause such repairs to be performed. The expense of such repairs, including appropriate overhead, shall be charged against the Person causing the

damage or, when such Person cannot be identified, to the abutting parcel owner. If the expense of such repairs is not paid within sixty (60) days, the cost of such repairs shall be assessed against the abutting parcel(s). Such expense shall be levied, certified and collected as a special assessment tax.

#### **Section 10.04.060**

~~“Permitting w~~Water to running into streets, etc.” It shall be ~~is~~ unlawful for any person to cause, ~~permit~~ or allow any water or waste to be discharged ~~into or run into or upon~~ any street, sidewalk, avenue, alley, or ~~p~~Public place unless prevention of such drainage is deemed technically infeasible in writing by ~~in~~ the City Engineer. This Section shall not apply to ~~of~~ ~~Wichita~~ except for storm water runoff; ~~provided that fugitive lawn irrigation water which does not result in spraying of water from a sprinkler system onto the portion of a street used by vehicular traffic, street deterioration, mosquito breeding, excessive waste of water, odor, or other nuisance or pollution conditions may be permitted to overflow into the street. The owner and/or occupant of any premises upon or from which a violation of this section occurs shall be guilty of a misdemeanor.~~

*(Ord. No. 41-007 § 1)*

#### **Section 10.04.065**

“Lawn irrigation; spraying of streets and sidewalks prohibited.” It is unlawful to directly spray water from a sprinkler system onto any sidewalk or onto the traveled portion of any street.

#### **Section 10.04.070**

“Congregating on sidewalks, visibility of traffic~~ete.”~~ No crowd, ~~or~~ collection of persons, or any other obstruction shall ~~stand~~ be allowed upon any sidewalk ~~or the street crossing~~ Right-of-Way so as to impair vehicles’ sight triangles as defined by “A Policy on Geometric Design of Highways and Streets,” current edition, as published by the American Association of State Highway and Transportation Officials (AASHTO). ~~intercept, interrupt or obstruct the traffic upon or free travel over the same or to the annoyance of people doing business in buildings adjoining such sidewalk. It is unlawful~~ Any person to violate ~~ing~~ the provisions of this ~~s~~Section, ~~who~~ or to refuses or ~~neglects~~ fail to comply with the request of any police officer to move ~~on or~~ to clear such obstruction, ~~is guilty of a misdemeanor.~~

*(Ord. No. 11-592, Art. 7 § 102)*

#### **Section 10.04.080**

**“Digging holes in public Right-of-Way streets, etc.** Any person who ~~It is unlawful to~~ digs any holes in any streets, alleys, ~~or~~ avenues or other Right-of-Way within the City limits without a permit from either the City Engineer or the Superintendent Of Public Works Maintenance, or who ~~to~~ leaves any holes dug under any such permit in an unfilled, or uncovered, unsafe, or in such a unsightly condition as to be liable to cause injury to any person, is guilty of a misdemeanor.

*(Ord. No. 11-592, Art. 7 § 103)*

#### **Section 10.04.100**

**“Sidewalks and Rights-of-way to be kept clean by abutting property owners or occupants.”** It is unlawful for the owner or occupant of any lot or piece of ground abutting upon any street upon which there is a sidewalk parcel to allow paint, soil, grass, leaves, sand, gravel, rock, earth, dirt, filth, mud, papers, stone, snow, ice, refuse, and rubbish, or any other material to accumulate and/or grow over the abutting such sidewalk, alley, or Right-of-Way.

*(Ord. No. 35-100 (part))*

**SECTION 10.04.105. -- Property abutting public right-of-way to be kept clean by owner of adjacent land.**

(a) ~~It is unlawful for the owner or occupant of any lot or piece of ground abutting any street, or alley within the City to allow filth, papers, refuse or rubbish to accumulate and remain on that portion of the public right of way easement between the traveled portion of such street, or alley and said person's lot or piece of ground.~~

(b) ~~It is unlawful for the owner or occupant of any lot or piece of ground abutting any unopened street, or alley within the City to allow filth, papers, refuse or rubbish to accumulate and remain on the public right of way easement abutting said person's lot or piece of ground.~~

*(Ord. No. 38-095 § 1)*

#### **Section 10.04.110**

**“Same—Notice to clean.”** Whenever any p~~erson~~erson whose duty it is to keep clean the areas described in Sections 10.04.030, 10.04.040 or 10.04.100 ~~and 10.04.105~~ shall fails to do so, the



~~Director of Operations and Maintenance, City Engineer or his authorized~~the City Engineer's representative; shall serve or cause to be served upon such ~~p~~Person a notice requiring such ~~p~~Person to comply with the requirements of Section 10.04.030, 10.04.040 or 10.04.100 ~~and/or Section 10.04.105~~. Such notice may be served by mailing the same, postage prepaid and certified, to the ~~last known address of such owner of recorder occupant, or in cases in which such person cannot be found, such notice may be posted in a conspicuous place upon the lot or piece of ground to be cleaned.~~

*(Ord. No. 38-095 § 2)*

### **Section 10.04.120**

**"Assignment of Costs of Cleaning."** The expense of any cleaning described in this Chapter; including appropriate overhead, shall be charged against the abutting parcel and levied, certified, and collected as a special assessment tax.

~~**"Same Failure to comply with notice."** If the owner or occupant of a lot or piece of ground fails to clean the same after having been given the notice provided for in Section 10.04.110, the area described in Sections 10.04.100 and 10.04.105 may be cleaned by or under the direction of the Director of Operations and Maintenance, or his authorized representative, and the expense thereof taxed against the abutting lot or piece of property and such tax shall be levied, certified and collected in the same manner as special assessment taxes for the repair and construction of sidewalks.~~

*(Ord. No. 38-095 § 3)*

### **Section 10.04.125**

~~**SECTION 10.04.130. — "Obstructing on of streets, and sidewalks and the public Right-of-Way; penalty."**by litter, goods, wares, etc.~~

- (a) It is unlawful for ~~any person~~ to obstruct any street, alley, public area, public ~~R~~Right-of-Way or sidewalk in the City by depositing, ~~;(a) P~~piling, placing, ~~or~~ maintaining, or allowing to remain thereon; ~~any filth, litter or any goods, wares or merchandise; or by~~
- (b) ~~Placing or erecting any buildings or fence thereon; or~~
1. Any basketball hoop, hockey or soccer net, skateboard ramps, or any other type of goal or hoop;
  2. Any dumpsters or garbage containers larger than one hundred (100) gallons;

3. Any boulder, rock, stone, or any other objects in excess of thirty (30) pounds in the aggregate;
  4. Any tree, plant, grass, or any other object more than thirty-three (33) inches above the lowest point of the gutter or street, whichever is lower in the sight triangle of any street, Driveway, or alley as defined by “A Policy on Geometric Design of Highways and Streets,” current edition, as published by the American Association of State Highway and Transportation Officials (AASHTO);
  5. Any storage device of any type weighing more than one hundred (100) pounds;
  6. Any filth, litter, or waste;
  7. Any goods, wares, signs, or merchandise;
  8. Any buildings, Structures, or fences;
  9. Any benches, seats or tables;
  10. Any wires, conduits, or cables;
  10. Any residential garbage bins except within twenty-four (24) hours of a scheduled solid waste removal;
  11. Any other object, regardless of nature, that the City Engineer or the City Engineer’s designee determines is unsafe.
- (b) Any object shall not be considered an obstruction of the public Right-of-Way under the following conditions:
1. ~~(e) Placing any benches or seats for public use thereon, except when a street closure has been approved by the City Council~~ The object is authorized by a community events permit pursuant to ~~Section 3.11.150~~ of the Code of the City of Wichita;
  2. The object is authorized by a Right-of-Way use permit granted as provided in Chapter 10.08;
  3. The object is regulated as short-term building construction by the building code as defined in Title 18 of the Code of the City of Wichita, unless deemed a hazard by the City Engineer or the City Engineer’s designee;
  4. The object is allowed under a valid franchise agreement issued to a utility for use of the Right-of-Way;

5. The object is allowed under a point-to-point agreement with the City of Wichita for the specific use of defined Right-of-Way limits when the franchisee does not own the abutting parcel;
6. Use of street permits issued to property owners or the property owner's designee for the use of the abutting Right-of-Way;
7. ~~This Section specifically prohibits the using of any public sidewalk in the City Permit granted for exhibiting goods, wares, or and merchandise except by special permit granted as provided in Section 10.04.131; and any person violating this Section is guilty of a misdemeanor.~~
8. If the City Engineer or the City Engineer's designee determines that such object is not an obstruction.

~~For the purposes of this Section 'public right of way' shall mean the entire width of the area from property line to property line including that area between the roadway and the abutting private property line.~~

~~(Ord. No. 41-521 § 1; Ord. No. 47-029, § 1, 5-16-06; Ord. No. 47-048, § 1, 6-20-06; Ord. No. 48-757, § 15, 6-22-2010, eff. 1-1-2011)~~

#### **Section 10.04.126**

##### **"Same—Notice to remove obstructions; penalties."**

- (a) Whenever any Person obstructs the Right-of-Way as described in Section 10.04.125, the City Engineer or the City Engineer's representative shall serve or cause to be served a notice upon such Person, any authorizing entity and, if different, the owner of record of the property, requiring compliance within thirty (30) days of the date of such notice. Such notice(s) will be served through first-class mail, postage prepaid and certified, to the last known address of such Person(s) or by personal service.
- (b) The City Engineer or the City Engineer's representative shall either demand removal of the obstruction within a time period not to exceed thirty (30) days or authorize compliance through Section 10.04.125(b).
- (c) The City Engineer shall, without discretion, charge such Person with a Right-of-Way usage fee of two hundred (200) dollars per day for the time period such obstruction was in the Right-of-Way.

#### **Section 10.04.127**

**“Same—Failure to comply with notice; penalties.”**

- (a) If the Person noticed under Section 10.04.126 knowingly fails to comply with such notice, either through failure to remove the obstruction or failure to obtain compliance through Section 10.04.125(b), the City Engineer or the City Engineer’s representative shall take action to remove such obstruction removed forthwith.
- (b) When such Person noticed under Section 10.04.126 fails to remove such obstruction pursuant to the notice or fails to respond to the notice, such property shall be deemed abandoned after sixty (60) days. After sixty (60) days has passed since the date of the notice, this Section shall be considered a defense to theft, conversion, or destruction of such obstruction.
- (c) The costs of removal shall be charged against the Person creating the obstruction or, when such Person cannot be identified, against the abutting property and such tax shall be levied, certified, and collected in the same manner as special assessment taxes for the repair and construction of sidewalks.
- (d) Any Person violating Section 10.04.126 is guilty of a misdemeanor, punishable by a fine not to exceed two thousand five hundred (2,500) dollars and incarceration for a period up to three (3) days. Every day said Person fails to comply with Section 10.04.126 shall constitute a separate and distinct offense.

**Section 10.04.130.**

~~“Obstructing streets and sidewalks by litter, goods, wares, etc.” It is unlawful for any person to obstruct any street, alley, public area, public right of way or sidewalk in the City by:~~

- ~~(a) Piling, placing or maintaining thereon any filth, litter or any goods, wares or merchandise; or by~~
- ~~(b) Placing or erecting any buildings or fence thereon; or~~
- ~~(c) Placing any benches or seats for public use thereon, except when a street closure has been approved by the City Council pursuant to Section 3.11.150 of the Code of the City of Wichita.~~

~~This Section specifically prohibits the using of any public sidewalk in the City for exhibiting goods, wares and merchandise except by special permit granted as provided in Section 10.04.131, and any person violating this Section is guilty of a misdemeanor.~~

~~For the purposes of this Section 'public right of way' shall mean the entire width of the area from property line to property line including that area between the roadway and the abutting private property line.~~

~~(Ord. No. 41 521 § 1; Ord. No. 47 029, § 1, 5 16 06; Ord. No. 47 048, § 1, 6 20 06; Ord. No. 48 757, § 15, 6 22 2010, eff. 1 1 2011)~~

#### **Section 10.04.131**

##### **~~“Same—Permits.~~Permits and Applicable Procedure.”**

- (a) Upon application to the ~~City's Office of Central Inspection~~Metropolitan Area Building and Construction Department (MABCD) and approval by the City Manager, a permit for isolated sales may be issued to allow the location of stands, tables, racks and other devices for the sale and display of merchandise upon public sidewalks for a consecutive period not to exceed three (3) days annually, ~~such three day period to run consecutively~~. The application shall be referred to the City's Division of Traffic Engineering, ~~Office of Central Inspection~~MABCD, and the Fire Department for their recommendations and determination that the sidewalk sale activity will not endanger or unduly inconvenience the public.
- (b) Sidewalks used for the display and sale of goods under a permit for isolated sales must be located in non-residential zoning districts. The location of the display devices shall be made so that no more than one-half of the sidewalk area from front to back is occupied by the display racks, etc., but in no case shall the unobstructed sidewalk area be less than four (4) feet; furthermore, the placement of the display racks, etc., shall be limited so that each merchant shall display ~~his~~the merchandise only within the area of the sidewalk which immediately abuts ~~his~~each merchant's business.
- (c) ~~Upon~~After application to the City's ~~Department of Public Works~~ Engineer's Office and upon notice and opportunity ~~to for~~ to comment ~~afforded to~~ from the public, a sidewalk café permit may be issued. ~~That~~Such permit will allow for the location of diverters, plantings, stands, tables, lighting, seating, devices for protection of patrons from the elements, and other devices for the sale and service of prepared meals and beverages. The sale, service and consumption of prepared meals and beverages including alcoholic liquor shall be allowed upon public sidewalks within the permitted area as provided under K.S.A. § 12-406a and K.S.A. § 41-719 (d). The application shall comply with the administrative requirements established by the City Engineer, and shall be referred to the City's ~~Division of Traffic~~

Engineering, the ~~Office of Central Inspection~~ MABCD and the Fire Department for their recommendations and determination that the sidewalk café operation as described in the application will not endanger or unduly inconvenience the public. If negative public comment is received, the City Engineer shall hold a public hearing and shall make a decision on the issuance of the permit. A permit denial may be appealed to the City Council in a writing delivered to the City Clerk within fifteen (15) days of the decision by the City Engineer.

*(Ord. No. 46-209 § 1 (part); Ord. No. 45-148 § 1; Ord. No. 33-071 (part))*

#### **Section 10.04.132**

**“Same—Permit issuance.”** ~~Same—Approval of Application Issuance.~~ On approval of the application and payment of the required fee ~~for either permit referred to in under Section 10.04.131, and upon payment of the required fee, the permit shall be issued by the Superintendent of Central Inspection for the isolated sales permit and by the Director of Public Works for the sidewalk café permit shall be issued by the MABCD or the City Engineer, respectively.~~ This permit is in addition to any other license or permit required for the operation intended. The area encompassed by a valid sidewalk café permit may be included by the permit holder as part of the licensed premises submitted for any club or drinking establishment license issued by the State of Kansas. The encompassed area shall remain public Right-of-Way for the purposes of enforcement of municipal ordinances.

*(Ord. No. 46-209 § 1 (part); Ord. No. 45-148 § 2)*

#### **Section 10.04.133**

**“Same—Authority to grant Permit renewal of permit previously issued.”** ~~The issuing superintendent may grant annual r~~Renewals of permits ~~previously may be granted under the provisions of the preceding section upon the payment of the annual permit fees to the City Treasurer and providing proof of continuation in force of such liability insurance, as was originally required for such permit, unless the City council shall direct that such renewal not be issued.~~

*(Ord. No. 45-148 § 3)*

#### **Section 10.04.134**

**~~“Same—Liability of pPermittee; To save and hold eCity harmless and insure.”~~** It shall be a condition of the ~~issuance and use of permits and permit renewals granted under the provisions of this chapter~~ that the pPermittee shall ~~save~~defend and hold the eCity, and its employees and agents harmless of any ~~and all liability, claims or expenses~~action of any type or kind caused by; the pPermittee or its employees or agents~~growing out of, the construction, maintenance, operation, discontinuance or abatement of the facilities and activities permitted.~~ The permit applicant shall provide evidence of liability insurance in a minimum coverage amount of five hundred thousand (500,000) dollars, naming the City of Wichita as additional insured. The insurance coverage must be in force for the duration of the permit, and provide coverage for all potential losses that could be incurred under the ~~above~~above~~mentioned defend~~ and hold harmless obligation.

*(Ord. No. 45-148 § 4)*

#### **Section 10.04.135**

**~~“Same—Revocation of permit.”~~** The permits which may be granted under this eChapter are personal privileges which may be revoked by the issuing ~~superintendent~~entity for violation of the ordinances in this eChapter, ~~or~~ for violations of any regulations promulgated by the ~~superintendent~~MABCD or eCity eEngineer for the uniform administration of the permitting and renewal process, or for the health, welfare or safety of the public. The eCity eEngineer shall establish a ~~policies~~policy governing the potential of reinstatement of the sidewalk café permit designed to discourage repeat offenses.

*(Ord. No. 45-148 § 5)*

#### **Section 10.04.140**

**~~“Poles in streets—Permit required for~~to erection poles in streets.** ~~121~~ **”**

~~\*Case law references: For ease quoting and discussing the ordinance from which this Section is derived. See, Old Colony Trust Co. v. City of Wichita, 123 Fed. 762. (Kan 1903).~~

It is unlawful for any pPerson to erect any poles for the support of ~~telephone wires~~any utility in any public street or alley, in the eCity, unless the owners or users of such pole first obtain from the ~~board of commissioners of the eCity Council~~ a permit for the privilege of erecting such poles.

*(Ord. No. 1872 § 1)*

#### **Section 10.04.150**

~~“Same—To~~**Utility poles be marked.**~~” Whenever any person wishes to construct poles are~~  
in the City Right-of-Way, streets, avenues, alleys and public grounds~~or any other property~~ of the  
eCity, they owner of such pole shall be required to mark the poles so that the eCity ~~authorities~~  
~~may be able to~~ can distinguish to whom they belong. Any entity required~~and to register their~~  
mark poles shall provide an electronic database of the pole locations, both GIS and street  
address, and identification numbers with to the eCity Engineer~~erlek~~. Such information shall  
include the date of installation, the wattage and type of a streetlight (if attached), and an  
emergency contact name and phone number to be updated regularly.

*(Ord. No. 2654 § 1)*

#### **Section 10.04.160**

~~“Same—Permit required to string telephone wires.” It is unlawful for any person to~~  
~~string any wires in any public street or alley in the city unless such person is duly authorized by~~  
~~ordinance of the city to string and maintain such telephone wires in the public streets and alleys~~  
~~of the city.~~

*(Ord. No. 1884 § 1)*

#### **Section 10.04.170**

~~“House numbers—System to be used.”~~ All houses and buildings, except accessory  
sStructures, which have access to public or officially recognized private streets or ways, avenues  
and highways in the eCity shall be numbered and designated as follows:

1. STREETS, ETC., RUNNING NORTH AND SOUTH. On streets, avenues and highways  
running north and south, numbering shall commence with number 100 at the northeast and  
southeast comers and with number 101 at the northwest and southwest comers of each street  
at its intersection with Douglas Avenue and shall increase north and south at the rate of:
  - (a) 100 numbers for each block or space between two (2) streets; and
  - (b) One number for each twenty-foot (20) space along the building line of the street within  
each block with odd numbers being given to houses and buildings on the west side and  
even numbers to houses and buildings on the east side.
2. STREETS, ETC., RUNNING EAST AND WEST. On streets, avenues and highways  
~~nam~~ing~~running~~ east and west ~~in the city~~, numbering shall commence with number 100 at the  
northeast and northwest comers and with number 101 at the southeast and southwest comers



of each such east and west street at its intersection with Main Street and shall increase east and west at the rate of:

- (a) 100 numbers for each block or space between two (2) streets; and
- (b) One number for each twenty-foot (20) space along the building line of the street within each block with odd numbers being given to houses and buildings on the south side and even numbers to houses and buildings on the north side.

*(Ord. No. 36-995 § 1)*

#### **Section 10.04.180**

**“Same—Exceptions to system and correction of existing inconsistencies.”**

- (a) The ~~director of the department of engineering is~~City Engineer and the MABCD are authorized, empowered, and directed to make such exceptions to the numbering system as may be made necessary by the irregular routing of streets, avenues or highways, by the use of named private streets; or by any other circumstance under which application of the numbering system set forth in Section 10.04.170 is impossible or produces a result which is not consistent with the orderly and uniform numbering of houses and buildings.
- (b) The ~~director of the department of engineering is~~City Engineer and the MABCD are authorized, empowered, and directed to correct existing inconsistencies in ~~street~~house numbers assigned or otherwise in use by reassigning a street number consistent with Section 10.04.170 and 10.04.180 and requiring the property owner(s) ~~or owners involved~~ to post such reassigned street numbers as provided in Section 10.04.190.
- ~~(c) Before making a reassignment of street numbers as provided in subsection (b) of this Section, the director of the department of engineering shall notify the affected property owner in writing of such reassignment and said property owner may appeal a decision by the director of the department of engineering reassigning a street number to the governing body of the city. Such appeal shall be in writing setting forth with sufficient particularity the decision appealed from and the reasons why such decision should be reviewed. An appealing party shall have the right to be heard and to present evidence at the hearing set for such purpose. Provided, however, that no such appeal shall be accepted or considered by the governing body unless notice of such appeal is given to the governing body within twenty days after the making of the decision appealed from.~~

*(Ord. No. 36-995 § 2)*

#### **Section 10.04.190**

**“~~Same—~~Duty of owner or occupant to place; size, etc.”** The owner or occupant of ~~each~~ and every house or building in the eCity is required to conspicuously place on the house or building, in a conspicuous place, house numbers of at least ~~three~~four (4 in.) inches in height, of a type to be selected by the owner or occupant, which numbers shall be in conformity with and according to the provisions of the two preceding sections of this chapter. Painting house numbers on the Curb alone shall not be sufficient to comply with this Section.

Such numbers shall be of consistent with Sections 10.04.170 and 10.04.180. Such numbers shall be of a sufficient contrast such that police officers and firefighters can read the numbers from the abutting street. Any property owner failing to comply with this Section is guilty of a misdemeanor. Each day house numbers are not properly placed on the house or building is a separate and distinct offence.

*(Ord. No. 14 491 § 2)*

#### **Section 10.04.200**

##### **“Assignment of names to private streets.”**

- (a) Any property owner may request that that portion of a private street ~~or way~~ running through said owner's property be named and that such name be officially recognized by the eCity. Such request shall be made to the Metropolitan Area Planning Department (MAPD) and shall be acted upon by the Director of the MAPD planning department consistent with a policy of maintaining uniformity and consistency in the names of streets and the numbering of housing and buildings within the eCity so as to insure the ready and efficient location of houses and buildings by the Fire Department, Police Department, other emergency services and the public.
- (b) In the event such a private street ~~or way~~ is named and such name is officially recognized by the eCity, it shall be the responsibility of the said property owner to erect and maintain a street sign or signs of the same type, size and color as street signs installed by the eCity on public streets. Such sign, by suffix or subsidiary sign element, shall identify the street by adding “Private Street,” ~~or “Private St.”; or “Pvt. St.”~~ in a manner approved by the City Traffic Engineer.
- (c) In the event the signs referred to in paragraph (b) above are not erected or maintained as provided in said subsection, the eCity is authorized to erect such signs ~~with the cost thereof~~

~~to be and charge or assessed the cost against the requesting party or parties or the abutting property owner(s) or owners abutting said private street or way.~~

- (d) When the name of a private street ~~or way~~ is officially recognized by the ~~e~~City and such street ~~or way~~ is not named and identified on the recorded subdivision within which it is located, it shall be the duty and responsibility of the ~~p~~Persons(s) ~~or persons~~ requesting recognition of such named street ~~or way~~ to file with the register of deeds of Sedgwick County, Kansas, a copy of a site plan prepared with sufficient detail to locate such private street ~~or way~~.

*(Ord. No. 36-995 § 3)*

#### **Section 10.04.210**

**“Same—Appeal.”** Any applicant may appeal a decision by the ~~D~~director of the ~~MAPD~~planning department refusing to approve the naming or numbering of a ~~private street or way~~ to the ~~M~~metropolitan ~~A~~area ~~P~~planning ~~C~~ommission (MAPC). Such appeal shall be in writing setting forth with sufficient particularity the decision being appealed from and the reasons why such decision should be reviewed. Provided, however, ~~that~~ no such appeal shall be considered by ~~the said commission~~MAPC unless written notice of ~~the said~~ appeal is received by the ~~commission~~MAPC no later than ~~twenty~~ten (10) days after the decision being appealed from is made.

*(Ord. No. 36-995 § 4)*

#### **Section 10.04.215**

**“Same—Enforcement.”** The MABCD, City Engineering, the Wichita Fire Department, and the Wichita Police Department have the power to enforce any provision of this Section.

#### **Section 10.04.220**

**“Same—Penalty.”** The failure of the owner or occupant of a house or building to comply with the provisions of Section 10.04.190 above shall constitute an offense punishable by a fine of not to exceed twenty-five hundred (2,500) dollars. Every day said owner or occupant fails to comply with said Section 10.04.190 shall constitute a separate and distinct offense.

*(Ord. No. 36-995 § 5)*

(First published in *The Wichita Eagle*, on April 29, 2016)

ORDINANCE NO. 50-179

AN ORDINANCE ADMENDING SECTIONS 10.12.010, 10.12.020, 10.12.030, 10.12.040, 10.12.050, 10.12.060, 10.12.070, 10.12.080, 10.12.090, 10.12.100, 10.12.110, 10.12.120, 10.12.130, 10.12.140, 10.12.150, 10.12.160, 10.12.180 AND 10.12.190 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO CONCRETE CONSTRUCTION ON THE RIGHT OF WAY AND REPEALING THE ORIGINALS THEREOF.

AN ORDINANCE CREATING SECTIONS 10.12.135, 10.12.136 AND 10.12.137 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO CONCRETE CONSTRUCTION ON THE RIGHT OF WAY.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 10.12.010 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“To be constructed of concrete and in accordance with specifications.”** All public sidewalks, wheelchair ramps, Curbs, gutters and private Drive approaches constructed in the city shall be of concrete unless otherwise ordered by the City Council and shall be constructed according to specifications on file in the office of the City Engineer for the purpose of giving the City, through its proper officers, supervision over the construction of such public sidewalks, wheelchair ramps, Curbs, gutters and Drive approaches. The City Engineer shall have the authority to approve other materials for temporary situations or for non-standard sidewalks, Curbs, gutters and private Drive approaches.

SECTION 2. Section 10.12.020 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Plans and specifications for repair, etc., of sidewalks, wheelchair ramps, Curbs, gutters and private Drive approaches.”** All sidewalks, wheelchair ramps, Curbs, gutters and private Drive approaches in the city shall be repaired or reconstructed in accordance with the official plans and specifications on file in the office of the City Engineer. The City Engineer

may require temporary sidewalks and wheelchair ramps be constructed forthwith during the construction, reconstruction, maintenance, or otherwise of any sidewalk or wheelchair ramp.

SECTION 3. Section 10.12.030 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“License required to construct—Fee; term.”** Every Person, before constructing any public sidewalk, wheelchair ramp, Curb, gutter or Drive approach, or before removing any Curb or sidewalk for the purpose of constructing a private approach in the city, shall be required to obtain a license from the City Engineer for which payment of a license fee as listed in Section 10.34.010 authorizes the licensee to engage in such work for a period of twelve (12) months.

Applicants for the license must first take and pass a test that is administered by the Engineering Division. There is a charge to take the test which allows applicants who don't pass the test the first time to retest after one (1) week. The charge is listed in Section 10.34.010.

All license renewals not paid within thirty-six (36) days after the due date shall be subject to a penalty equal to the amount of the license, and all licenses not paid within sixty (60) days after the due date shall be subject to a penalty equal to double the amount of the license. Inactive contractors who do not renew their licenses within one year of the due date will be required to pay the charge to take and pass the test to renew.

The City Engineer shall have the authority to waive the license requirement to allow contractors and/or property owners to perform gravel and asphalt work.

SECTION 4. Section 10.12.040 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Same—Qualifications of applicant to be shown—Bond required.”**

(a) Before a license shall be granted by the City Engineer, under the provisions of the preceding section, the Person applying for the same shall show, subject to the rules and regulations to be furnished by the City Engineer, skill in constructing public sidewalks, wheelchair ramps, Curbs, gutters, and private Drive approaches, and cutting through such Curbs and sidewalks.

(b) Before any concrete contractor's license is issued, the applicant therefore shall have filed with the City Engineer's office a surety bond in the amount of five thousand (5,000) dollars, which shall be approved as to form by the City Attorney. The condition of such bond shall be that the principal therein shall comply with all ordinances of the City relating

to and regulating the construction of all public sidewalks, wheelchair ramps, Curbs, gutters and private Drive approaches, and hold and save the City harmless from any and all damage to persons or property resulting from or growing out of any opening or Excavation made, material stored or placed upon any operation in the street, alley or public property, or from any other action by the principal therein. The bond renewal date shall be the same date as the license renewal date.

SECTION 5. Section 10.12.050 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Permit required to engage in construction; fee, etc.”** Contractors are required to obtain a permit(s) from the City Engineer before constructing any public sidewalk, wheelchair ramp, Curb, gutter or Drive approach on the City Right of way. The permit fees listed in Section 10.34.010 shall apply whether the abutting property is commercial or residential.

Widening or replacement of existing drives shall be considered as a new Drive approach in assessing of fees. Such permit shall state the location of the sidewalk, wheelchair ramp, Curb, gutter or Drive approach to be constructed, widened, replaced or removed.

Permits are nonrefundable and nontransferable.

SECTION 6. Section 10.12.060 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Refusal of permits and/or penalty for failure to obey rules and regulations.”** The City Engineer shall refuse permits to contractors who fail or refuse to obey all rules and regulations necessary in the enforcement of this chapter. A penalty up to double the cost of the permit will be charged for failure to call for inspections or obtain a permit prior to the beginning of work that will be performed on city Right-of-Way.

All permits not paid within thirty six (36) days after the due date shall be subject to a penalty equal to the amount of the permit fee, and all permits not paid within sixty (60) days after the due date shall be subject to a penalty equal to double the amount of the permit fee. Any amounts owed by the Permittee may be offset against any amounts due or payable from the City, including withholding funds of any awarded project to reimburse the City for any outstanding debts. All permits and penalties not paid within ninety (90) days of the due date will be turned over to the contractor’s bond company.

SECTION 7. Section 10.12.070 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Concrete Specifications”** All concrete work shall comply, at a minimum, with City Standard Specifications as promulgated by the City Engineer.

SECTION 8. Section 10.12.080 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Width required of sidewalks; exceptions.”** All new public sidewalks constructed under the provisions of this chapter shall be, at a minimum, five (5) feet in width unless otherwise authorized by the City Engineer.

SECTION 9. Section 10.12.090 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Widening of existing sidewalks.”** Any sidewalk may be widened at any time by directive of the City Council or the City Engineer.

SECTION 10. Section 10.12.100 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Location and grade of sidewalks.”** All sidewalks shall be constructed at the location and grade established by the City Engineer.

SECTION 11. Section 10.12.110 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Inspection of work—Notice to City Engineer; acceptance or refusal.** Every contractor or other Person constructing public sidewalks, wheelchair ramps, Curbs or gutters or private Drive approaches shall notify the City Engineer when the work is ready for inspection so as to give ample time to make the inspection before the concrete is placed. If upon investigation and inspection by the City Engineer, or the Engineer’s agent, the public sidewalk, wheelchair ramp, Curb, gutter or Drive approach is found to be out of compliance with the specifications provided for in the construction of such sidewalk, Curb, gutter or Drive approach, the City Engineer may refuse to accept and approve the work and require that any errors in the construction be removed, repaired, or corrected to the satisfaction of the City Engineer prior to the acceptance of the work.

SECTION 12. Section 10.12.120 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Same—Duty of sidewalk inspector.”** For the purpose of making the inspection as provided for in this chapter, the sidewalk inspector in the City Engineer's office shall make the inspection of sidewalks, wheelchair ramps, Curbs, gutters and private Drive approaches as provided for in this chapter, which inspection shall be made according to the rules and specifications furnished by the City Engineer.

SECTION 13. Section 10.12.130 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Same—Refusal of future permits until defects in construction are corrected.”** The City Engineer shall refuse any contractor permits to build sidewalks, wheelchair ramps, Curbs, gutters and private Drive approaches until such defect in construction in previous work has been removed, replaced, or corrected to the satisfaction of the City Engineer.

SECTION 14. Section 10.12.135 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Responsibility of abutting property owner.”** Whenever the City Engineer, or the Engineer’s agent, finds that the public sidewalk, wheelchair ramp, Curb, gutter or Drive approach is not in accordance with the specifications provided for in the construction of such sidewalk, Curb, gutter or Drive approach, or a temporary sidewalk or wheelchair ramp has not been provided as required in 10.12.020 and the entity responsible for the work cannot be identified, is not licensed and bonded, or is unwilling to pay for the work or repairs, the Engineer may require that any errors in the construction be corrected forthwith by the abutting property owner.

SECTION 15. Section 10.12.136 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Notice to construct in accordance with city specifications.”** Whenever any Person whose duty it is to correct any errors in construction as described in Section 10.12.135 shall fail to do so, the City Engineer or the Engineer’s representative shall serve or cause to be served upon such Person a notice requiring such Person to comply with the requirements of Section 10.12.135. Such notice may be served by mailing the same, postage prepaid and certified, to the last known address of such owner or occupant, or in cases in which such Person cannot be found such notice may be posted in a conspicuous place upon the lot or piece of ground to be corrected.



SECTION 16. Section 10.12.137 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Same—Failure to comply with notice.”** If the owner or occupant of a parcel fails to correct the errors after having been given the notice provided for in Section 10.12.136, the repairs described in Section 10.12.135 may be made under the direction of the City Engineer or the Engineer’s representative and the expense thereof taxed against the abutting lot or piece of property and such tax shall be levied, certified and collected in the same manner as special assessment taxes for the repair and construction of sidewalks.

SECTION 17. Section 10.12.140 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Requiring new sidewalks to be built—By resolution after petition.”** The City Council may, by resolution passed at any meeting, require the building of any new sidewalk upon the signing of a petition by a majority of resident owners or by owners representing fifty-one (51) percent or more of the area of the improvement district.

SECTION 18. Section 10.12.150 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Same—Resolution to specify kind, width, length, etc.”** The resolution referred to in the preceding section shall specify the kind, width, and length of sidewalk to be built.

SECTION 19. Section 10.12.160 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Same—Publication of resolution; notice.”** Immediately upon the passage of the resolution by the City Council ordering the sidewalk to be built, it shall be the duty of the City Clerk to cause the publication of such resolution together with a notice stating the names of the streets upon which sidewalks are to be constructed, which resolution and notice shall be published in the official city paper as provided by law.

SECTION 20. Section 10.12.180 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**Same—Failure of owner to construct after notice; estimate of cost to be made; work to be let by contract; costs.** If any sidewalk is not constructed as required by resolution, the City Council may order such sidewalk to be constructed as hereinafter prescribed. An estimate of the

cost thereof shall first be made under oath by the City Engineer and submitted to the Purchasing Manager, who shall proceed with letting the contracts as provided in City Code Chapter 2.64.

The cost of constructing such sidewalk shall be assessed against the owner of the abutting property and the assessment levied against such property as provided by law.

SECTION 20. Section 10.12.190 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Same—Condemnation of existing sidewalks; construction of new sidewalks.”** The City Council may at any time, by resolution, condemn any portion of any sidewalk whenever in its judgment it shall be deemed necessary and provide for the construction of a new sidewalk in accordance with the provisions of this chapter. The City Council and/or the City Engineer may provide for the removal of a sidewalk without providing for any new sidewalk in its stead.

SECTION 21. The original of Sections 10.12.010, 10.12.020, 10.12.030, 10.12.040, 10.12.050, 10.12.060, 10.12.070, 10.12.080, 10.12.090, 10.12.100, 10.12.110, 10.12.120, 10.12.130, 10.12.140, 10.12.150, 10.12.160, 10.12.180 and 10.12.190 of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 22. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official City paper.

PASSED by the governing body of the City of Wichita, Kansas this 26th day of April, 2016.

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Jeff Longwell, Mayor

ATTEST:

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Karen Sublett, City Clerk

Approved as to Form:

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Jennifer Magaña  
Director of Law and City Attorney

## CERTIFICATE

I hereby certify that the foregoing is a true and correct copy of the original ordinance; that said Ordinance was passed on \_\_\_\_\_, 2016; that the record of the final vote on its passage is found on page \_\_\_\_ of journal \_\_\_\_; and that the Ordinance was published in ***The Wichita Eagle*** on \_\_\_\_\_, 2016.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Karen Sublett, City Clerk

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## DELINEATED

### **Section 10.12.010**

**“To be constructed of concrete and in accordance with specifications.”** All public sidewalks, wheelchair ramps, Ceurbs, gutters and private ~~d~~Drive approaches constructed in the city shall be of concrete unless otherwise ordered by the Ceity Ceouncil ~~of the city~~ and shall be constructed according to specifications on file in the office of the Ceity Engineer for the purpose of giving the Ceity, through its proper officers, supervision over the construction of such public sidewalks, wheelchair ramps, Ceurbs, gutters and ~~d~~Drive approaches. The Ceity Engineer shall have the authority to approve other materials for temporary situations or for non-standard sidewalks, Ceurbs, gutters and private ~~d~~Drive approaches.

~~(Ord. No. 45-681 § 1; Ord. No. 19-589 § 1)~~

### **Section 10.12.020**

**“Plans and specifications for repair, etc., of sidewalks, wheelchair ramps, Ceurbs, gutters and private ~~d~~Drive approaches.”** All sidewalks, wheelchair ramps, Curbs, gutters and private Drive approaches in the city shall be repaired or reconstructed in accordance with the official plans and specifications on file in the office of the Ceity Engineer. The City Engineer may require temporary sidewalks and wheelchair ramps be constructed forthwith during the construction, reconstruction, maintenance, or otherwise of any sidewalk or wheelchair ramp.

~~(Ord. No. 12-976 § 1)~~

### **Section 10.12.030**

**“License required to construct—Fee; term.”** Any entity, before constructing any public sidewalk, wheelchair ramp, Ceurb, gutter or ~~d~~Drive approach, or before removing any Ceurb or sidewalk for the purpose of constructing a private approach in the city, shall be required to obtain a license from the Ceity Engineer for which a payment of a license fee shall be charged as follows:

~~(1) A fee of thirty dollars authorizing the licensee to engage in such work for a period of three months;~~

~~(2) A fee of forty dollars authorizing the licensee to engage in such work for a period of six months; and a fee of sixty dollars as listed in Section 10.34.010 authorizing~~ es the licensee to engage in such work for a period of twelve (12) months.

Applicants for the license must first take and pass a test that is administered by the Engineering Division. There is a ~~fifty-dollar fee~~charge to take the test which allows applicants who don't pass the test the first time to retest after one (1) week. The charge is listed in Section 10.34.010.

All license renewals not paid within thirty six (36) days after the due date shall be subject to a penalty equal to the amount of the license, and all licenses not paid within sixty (60) days after the due date shall be subject to a penalty equal to double the amount of the license. Inactive contractors who do not renew their licenses within one year of the due date will be required to pay a fifty- (50) dollar fee, take and pass the test to renew.

The Ceity Engineer shall have the authority to waive the license requirement to allow contractors and/or property owners to ~~d~~operform gravel and asphalt work.

(~~Ord. No. 45-681 § 2; Ord. 40-058 § 1~~)

#### **Section 10.12.040**

##### **“~~Same—~~Qualifications of applicant to be shown—Bond required.”**

(a) Before a license shall be granted by the Ceity Engineer, under the provisions of the preceding section, the ~~p~~person applying for the same shall show, subject to the rules and regulations to be furnished by the Ceity Engineer, ~~that he is skilled in the art of~~ constructing public sidewalks, wheelchair ramps, Ceurbs, gutters, and private ~~d~~drive approaches, and cutting through such Ceurbs and sidewalks.

(b) Before any ~~eement~~ementconcrete contractor's license is issued, the applicant therefore shall have filed with the ~~city clerk~~City Engineer's office a surety bond in the amount of five thousand (5,000) dollars, which shall be approved as to form by the ~~e~~eCity aAttorney. The condition of such bond shall be that the principal therein shall comply with all ordinances of the eCity relating to and regulating the construction of all public sidewalks, wheelchair ramps, Ceurbs, gutters and private ~~d~~drive approaches, and hold and save the eCity harmless from any and all damage to persons or property resulting from or growing out of any opening or ~~e~~eExcavation made, material stored or placed upon any operation in the street, alley or public property, or from any other action by the principal therein. The bond renewal date shall be the same date as the license renewal date.

(~~Ord. No. 45-681 § 3; Ord. No. 33-578; Ord. No. 26-741 § 1~~)

#### **Section 10.12.050**

**“Permit required to engage in construction; fee, etc.”** ~~Before any person~~ Contractors are required to obtain a permit(s) from the City Engineer before engaging in the construction of any public sidewalk, wheelchair ramp, Curb, gutter or private dDrive approach on the City Right of way. across the parkings of the city, he/she shall first obtain a permit from the city engineer for which he/she shall pay the sum of thirty five dollars for sidewalk to be constructed from zero to twenty lineal feet, and sixty dollars for over twenty lineal feet of sidewalk to be constructed; seventy dollars for wheelchair ramps, twenty five dollars for temporary asphalt or unpaved approaches, seventy dollars (residential or commercial) for all paved curb and sidewalk to be removed for the purpose of constructing drive approaches, widening existing paved drive approaches or the removal and replacement of existing paved drive approaches. The permit fees listed in Section 10.34.010 shall apply whether the abutting property is commercial or residential.

Widening or replacement of existing drives shall be considered as a new dDrive approach in assessing of fees. Such permit shall state the location of the sidewalk, wheelchair ramp, Curb, gutter or dDrive approach to be constructed, widened, replaced or removed.

Permits are nonrefundable and nontransferable.

~~(Ord. No. 45-681 § 4; Ord. No. 41-116 § 1)~~

#### **Section 10.12.060**

**“Refusal of permits and/or penalty for failure to obey rules and regulations.”** The City Engineer shall refuse permits to contractors who fail or refuse to obey all reasonable rules and regulations necessary in the enforcement of this chapter. A penalty up to double the cost of the permit will be charged for failure to call for inspections or obtain a permit in a timely manner prior to the beginning of for work that will be performed on city right-of-way. A penalty equal to the cost of a license will be charged for failure to renew licenses.

All permits not paid within thirty six (36) days after the due date shall be subject to a penalty equal to the amount of the permit fee, and all permits not paid within sixty (60) days after the due date shall be subject to a penalty equal to double the amount of the permit fee. Any amounts owed by the Permittee may be offset against any amounts due or payable from the City, including withholding funds of any awarded project to reimburse the City for any outstanding debts. All permits and penalties not paid within ninety (90) days of the due date will be turned over to the contractor’s bond company.

(Ord. No. 45-681 § 5; Ord. No. 19-589 § 4)

#### **Section 10.12.070**

~~“Special mixing and concreting operations during cold weather.” No public sidewalk, wheelchair ramp, curb, gutter or private drive approaches shall be laid unless the temperature is twenty degrees Fahrenheit and rising. When concreting is authorized during cold weather, the aggregates may be heated by either steam or dry heat prior to being placed in the mixer. Unless otherwise authorized, the temperature of the mixed concrete shall not be less than fifty degrees Fahrenheit and no more than ninety degrees Fahrenheit at the time of placing it in the forms. Under no circumstances shall concreting operations continue when the air temperature is less than twenty degrees Fahrenheit. If the air temperature is thirty five degrees Fahrenheit or less at the time of placing concrete, the City Engineer may require the water and/or aggregates to be heated to not less than seventy degrees Fahrenheit and not more than one hundred fifty degrees Fahrenheit. No concrete shall be placed on frozen subgrade nor shall frozen aggregates be used in the concrete.~~

~~When concrete is being placed during the time that the air temperature may be expected to drop below forty degrees Fahrenheit the contractor will be required to protect the work by covering it with a suitable moisture barrier such as wet burlap or plastic sheeting and a suitable blanketing material such that will maintain a minimum temperature of forty degrees Fahrenheit in the concrete as measured on the surface of the work. This type of curing shall be maintained for a duration of ninety six hours after the concrete has been placed as long as the air temperature is expected to go below forty degrees Fahrenheit anytime during the ninety six hour period.~~

“Concrete Specifications” All concrete work shall comply, at a minimum, with City Standard Specifications as promulgated by the City Engineer.

(Ord. No. 45-681 § 6; Ord. No. 19-589 § 5)

#### **Section 10.12.080**

**“Width required of sidewalks; exceptions.”** All new public sidewalks constructed under the provisions of this chapter ~~must~~shall be five (5) feet in width, ~~unless all sidewalks already built in that particular block are four feet (4 ft.) in width, or unless otherwise ordered~~authorized by the ~~city council and/or the City Engineer of the city.~~

(Ord. No. 45-681 § 7; Ord. No. 19-589 § 3)

### **Section 10.12.090**

**“Widening of existing sidewalks.”** ~~All~~Any sidewalks ~~now built which are already four feet (4 ft.) in width~~ may be widened at any time by directive of the City Council or the City Engineer of the city.

(Ord. No. 19-589 § 3)

### **Section 10.12.100**

**“Location and grade of sidewalks.”** All sidewalks shall be constructed at the location and grade established by the ~~City~~ Engineer.

(Ord. No. 19-589 § 3)

### **Section 10.12.110**

**“Inspection of work—Notice to City Engineer; acceptance or refusal.** Every contractor or other ~~p~~Person constructing public sidewalks, wheelchair ramps, Ceurbs or gutters or private ~~d~~Drive approaches shall notify the City Engineer when the work is ready for inspection so as to give ~~the city engineer~~ ample time to make the inspection before the concrete is placed. If upon investigation and inspection by the City Engineer, or ~~his~~the Engineer’s agent, ~~he finds that~~ the public sidewalk, wheelchair ramp, Curb, gutter or ~~d~~Drive approach is found to be out of compliance~~not according to~~ with the specifications provided for in the construction of such sidewalk, Curb, gutter or ~~d~~Drive approach, ~~he~~the City Engineer may refuse to accept and approve the work and require that any errors in the construction be removed, repaired, or corrected at once and to the satisfaction of the City Engineer~~before the~~ prior to acceptance of the work.

(Ord. No. 45-681 § 8; Ord. No. 19-589 § 4)

### **Section 10.12.120**

**“~~Same—~~Duty of sidewalk inspector.”** For the purpose of making the inspection as provided for in this chapter, the sidewalk inspector in the City Engineer's office shall make the inspection of sidewalks, wheelchair ramps, Ceurbs, gutters and private ~~d~~Drive approaches as provided for in this chapter, which inspection shall be made according to the rules and specifications furnished by the City Engineer.

(Ord. No. 45-681 § 9; Ord. No. 19-589 § 6)

### **Section 10.12.130**



**“Same—Refusal of future permits until defects in construction are corrected.”** The City Engineer shall refuse any contractor permits to build sidewalks, wheelchair ramps, Curb, gutters and private ~~Drive~~ approaches until such defect in construction in previous work has been removed, replaced, or corrected ~~or adjusted~~ to the satisfaction of the City Engineer.

(Ord. No. 45-681 § 10; Ord. No. 19-589 § 4)

#### **Section 10.12.135**

**“Responsibility of abutting property owner.”** Whenever the City Engineer, or the Engineer’s agent, finds that the public sidewalk, wheelchair ramp, Curb, gutter or Drive approach is not in accordance with the specifications provided for in the construction of such sidewalk, Curb, gutter or Drive approach, or a temporary sidewalk or wheelchair ramp has not been provided as required in 10.12.020 and the entity responsible for the work cannot be identified, is not licensed and bonded, or is unwilling to pay for the work or repairs, the Engineer may require that any errors in the construction be corrected forthwith by the abutting property owner.

#### **Section 10.12.136**

**“Notice to construct in accordance with city specifications.”** Whenever any Person whose duty it is to correct any errors in construction as described in Section 10.12.135 shall fail to do so, the City Engineer or the Engineer’s representative shall serve or cause to be served upon such Person a notice requiring such Person to comply with the requirements of Section 10.12.135. Such notice may be served by mailing the same, postage prepaid and certified, to the last known address of such owner or occupant, or in cases in which such Person cannot be found, such notice may be posted in a conspicuous place upon the lot or piece of ground to be corrected.

#### **Section 10.12.137**

**“Same—Failure to comply with notice.”** If the owner or occupant of a parcel fails to correct the errors after having been given the notice provided for in Section 10.12.136, the repairs described in Section 10.12.135 may be made under the direction of the City Engineer, or the Engineer’s representative and the expense thereof taxed against the abutting lot or piece of property and such tax shall be levied, certified and collected in the same manner as special assessment taxes for the repair and construction of sidewalks.

#### **Section 10.12.140**

**“Requiring new sidewalks to be built—By resolution after petition.”** The Ceity Ceouncil may, by resolution passed at any meeting, require the building of any new sidewalk upon the signing of a petition by a majority of resident owners or by owners representing fifty-one (51) percent or more of the area of the improvement district.

(Ord. No. 45-681 § 11; Ord. No. 19-589 § 8)

#### **Section 10.12.150**

**“Same—Resolution to specify kind, width, length-of-time-allowed, etc.”** The resolution referred to in the preceding section shall specify the kind, the width and the length of the sidewalk to be built. ~~It shall also designate a time in which the sidewalk shall be built which shall not be later than thirty days after the passage of such resolution.~~

(Ord. No. 19-589 § 8)

#### **Section 10.12.160**

**“Same—Publication of resolution; notice.”** Immediately upon the passage of the resolution by the Ceity Ceouncil ordering the sidewalk to be built, it shall be the duty of the Ceity Clerk to cause the publication of such resolution together with a notice stating the names of the streets upon which sidewalks are to be constructed, which resolution and notice shall be published in the official city paper as provided by law.

(Ord. No. 45-681 § 12; Ord. No. 19-589 § 8)

#### **Section 10.12.180**

**Same—Failure of owner to construct after notice; estimate of cost to be made; work to be let by contract-to-lowest-bidder; costs.** ~~If the~~any sidewalk is not constructed as required by ~~the preceding section~~resolution, ~~within thirty days, unless a longer time is granted by the city council, then~~ the Ceity Ceouncil ~~shall~~may order such sidewalk to be constructed as hereinafter prescribed. An estimate of the cost thereof shall first be made under oath by the Ceity Eengineer and submitted to the ~~city council~~. ~~Sealed proposals for the construction of such sidewalks shall be invited by the city clerk by an advertisement published in the official city paper. The city council shall let the work by contract to the lowest bidder, if the bid is within the estimate.~~Purchasing Manager, who shall proceed with letting the contracts as provided in City Code Chapter 2.64.

The cost of constructing such sidewalk shall be assessed against the owner of the abutting property and the assessment levied against such property as provided by law.

~~(Ord. No. 45-681 § 13; Ord. No. 38-398 § 1)~~

**Section 10.12.190**

**“~~Same—~~Condemnation of existing sidewalks; construction of new sidewalks.”** The Ceity Ceouncil may at any time, by resolution, condemn any portion of any sidewalk whenever in its judgment it shall be deemed necessary and provide for the construction of a new sidewalk in accordance with the provisions of this chapter. The Ceity Ceouncil and/or the Ceity Engineer may provide for the removal of a sidewalk without providing for any new sidewalk in its stead.

~~(Ord. No. 45-681 § 14; Ord. No. 19-589 § 10)~~

CLEAN

(First Published in *The Wichita Eagle*, on April 29, 2016)

ORDINANCE NO. 50-180

AN ORDINANCE REPEALING SECTION 10.16.060 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO DRIVEWAYS AND CURB CUTS ON THE RIGHT OF WAY.

AN ORDINANCE ADMENDING SECTIONS 10.16.010, 10.16.020, 10.16.030, 10.16.040, 10.16.070, 10.16.080, 10.16.090, 10.16.100, 10.16.120, 10.16.130, 10.16.140, 10.16.150, 10.16.160, 10.16.170, 10.16.180 AND 10.16.190 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO DRIVEWAYS AND CURB CUTS ON THE RIGHT OF WAY AND REPEALING THE ORIGINALS THEREOF.

AN ORDINANCE CREATING SECTIONS 10.16.151 AND 10.16.152 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO DRIVEWAYS AND CURB CUTS ON THE RIGHT OF WAY.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 10.16.010 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Definition.”** Unless otherwise expressly stated or the context clearly indicates a different intention the following term shall, for the purpose of this chapter, have the meaning indicated in this section:

(a) OUTSIDE SIDEWALK LINE. "Outside sidewalk line" means a line lying along the edge of the sidewalk nearest the street roadway or curb; or where no sidewalk exists, a line in the street Right-of-Way parallel to and five (5) feet from the line of the private property.

SECTION 2. Section 10.16.020 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Cutting, breaking or removing of curb.”** It shall be unlawful for any Person to cut, break out, remove, or damage in any way any curb along a street or alley except as authorized by Chapter 10.12.

SECTION 3. Section 10.16.030 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Approaches as parking spaces or areas.”** It shall be unlawful for any Person to construct, alter, extend, permit, or cause to be constructed, altered or extended, any Drive approach that can be used only as a parking space or area between the curb and private property.

SECTION 4. Section 10.16.040 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Subordination to Section 10.08.”** This chapter shall be subordinate to Section 10.08.

SECTION 5. Section 10.16.060 of the Code of the City of Wichita, Kansas, is hereby repealed.

SECTION 6. Section 10.16.070 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Maximum width of approaches; exception.”** No Drive approach shall exceed thirty (30) feet in width unless such approach is approved in writing by the City Engineer or the City Engineer’s designee. On streets marked as permanent state or federal highway routes, a Drive approach may be constructed with a maximum width of forty (40) feet upon written approval of the City Engineer or the Traffic Engineer.

SECTION 7. Section 10.16.080 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Curb-parking spaces between approaches.”** Where more than one Drive approach on a street front serves a single lot or tract of land, there shall be at least twenty (20) feet between Drive approaches.

SECTION 8. Section 10.16.090 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Sides, edges or curbs to be at right angles to street curb.”** The centerline of Drive approaches shall be at a right angle to the street curb unless otherwise approved by the City Engineer or the Traffic Engineer.

SECTION 9. Section 10.16.100 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Maximum width of curb cut.”** For the purpose of constructing a Drive approach, the construction limits shall not exceed four (4) feet beyond the Drive approaches or to the nearest joint as directed by the City Engineer.

SECTION 10. Section 10.16.120 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Residential Drive approach and street Corner distances.”** No portion of a Drive approach shall be constructed within four (4) feet of the projected straight line extension of the Right-of-Way line. In cases where the projected Right-of-Way line is less than fourteen (14) feet from the back of Curb of the perpendicular street, no portion of a Drive approach shall be constructed within eighteen (18) feet of the straight line extension of the back of the Curb of the perpendicular roadway. The City Engineer or Traffic Engineer shall have the right to allow exceptions to this section in the interest of public safety.

SECTION 11. Section 10.16.130 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Curb return radius.”** The radius of curvature of the Curb return shall not exceed the distance between the Curb and the outside sidewalk line unless approved by the City Engineer or the City Engineer’s designee. However, in no case shall the radius intrude into the sidewalk. In cases where no such sidewalk exists, the radius of the curvature of the Curb return shall not exceed the distance between the Curb and five (5) feet from the Right-of-Way line.

SECTION 12. Section 10.16.140 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Interference with street Structures —Prohibited.”** No Drive approach shall interfere with municipal facilities, including, but not limited to drainage Structures, street-lighting poles, traffic-signal standards, signs, catch basins, hydrants, crosswalks, bus-loading platforms, utility poles, fire-alarm supports, underground pipes or ducts.

SECTION 13. Section 10.16.150 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Same—Removal by city; cost.”** The City Engineer is authorized to order and affect the removal or reconstruction of any Drive approach, Curb or other Structure which is in violation of this chapter or which now conflicts with street Structures or which will conflict with street

Structures in the future. The cost of removing or reconstructing or relocating such Drive approaches, Curbs or any other Structures shall be at the expense of the abutting property owner.

SECTION 14. Section 10.16.151 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Same—Notice to remove or reconstruct any Drive approach or Curb which is in violation of this chapter.”** Whenever it is determined that a Drive approach, Curb or other Structure shall be removed or reconstructed at the expense of the abutting property owner as allowed in Section 10.16.150, the City Engineer or the Engineer’s representative, shall serve or cause to be served upon such Person a notice requiring such Person to comply with the requirements of Section 10.16.150. Such notice may be served by mailing the same, postage prepaid and certified, to the owner of record.

SECTION 15. Section 10.16.152 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Same—Failure to comply with notice.”** If the owner or occupant of a parcel fails to remove or reconstruct the Drive approach, Curb or other Structure in accordance with the specifications on file with the City Engineer, after having been given the notice provided for in Section 10.16.151, the removal or reconstruction may be made by or under the direction of the City Engineer or the Engineer’s representative, and the expense thereof taxed against the abutting parcel and such tax shall be levied, certified and collected in the same manner as special assessment taxes for the repair and construction of sidewalks.

SECTION 16. Section 10.16.160 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Cooperation between Superintendent of the Metropolitan Area Building and Construction Department (MABCD) and City Engineer.”** Any plans submitted to the Director of MABCD for approval that include or involve unusual Drive approaches or problems shall be referred by the Director of the MABCD to the City Engineer for approval before a building permit is issued.

SECTION 17. Section 10.16.170 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Variances from strict application of chapter.”** The City Engineer is hereby authorized to grant, in writing, variances from the strict application of the provisions of this chapter; provided that one of the following conditions is present:

1. The exception or variance desired arises from unique physical conditions not ordinarily existing in similar districts in the city or is due to the nature of the business or operation on the abutting property.
2. The exception or variance desired is not against the public interest, particularly safety, convenience, and general welfare.
3. The granting of the permit for the exception or variance will not adversely affect the rights of adjacent property owners or tenants.
4. The strict application of the terms of this chapter will work unnecessary hardship on the property owner or tenant.

SECTION 18. Section 10.16.180 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Appeals.”** Any decision by the City Engineer either granting or refusing to grant variances to the strict application of this chapter may be appealed in writing to the City Council by the party adversely affected, provided such appeal is filed in writing with the City Clerk within twenty (20) days after the issuance of the adverse decision. The City Clerk will docket the appeal for hearing before the City Council.

SECTION 19. Section 10.16.190 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Curb numbering.”** No Curb shall be lettered or numbered in any way except that residential street address numbers may be painted on Curbs in front of residential street addresses. Curb numbering must conform to the following standards:

- (1) Numbers must be black on white background;
- (2) Numbers must be in block print, four (4) inches in height, three-fourths (3/4) inch stroke, and there must be a space of at least one-fourth (1/4) inch and no more than one (1) inch in between numbers;
- (3) No numbers may be painted in restricted zones, that is, where Curbs are painted yellow or red or where parking is restricted;



(4) Numbers must be placed at the end of the Curb return on the street on which the residence is addressed and which is closest to the center of the frontage of the property or residence.

The City may remove addresses for which the numbers are not in conformity with these standards. The City has no obligation to replace numbering damaged or removed in the process of street maintenance activities.

SECTION 20. The original of Sections 10.16.010, 10.16.020, 10.16.030, 10.16.040, 10.16.060, 10.16.070, 10.16.080, 10.16.090, 10.16.100, 10.16.120, 10.16.130, 10.16.140, 10.16.150, 10.16.160, 10.16.170, 10.16.180 AND 10.16.190 of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 21. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official City paper.

PASSED by the governing body of the City of Wichita, Kansas this 26th day of April, 2016.

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Jeff Longwell, Mayor

ATTEST:

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Karen Sublett, City Clerk

Approved as to Form:

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Jennifer Magaña  
Director of Law and City Attorney

**CERTIFICATE**

I hereby certify that the foregoing is a true and correct copy of the original ordinance; that said Ordinance was passed on \_\_\_\_\_, 2016; that the record of the final vote on its passage is found on page \_\_\_\_ of journal \_\_\_\_; and that the Ordinance was published in ***The Wichita Eagle*** on \_\_\_\_\_, 2016.

DATED: \_\_\_\_\_

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Karen Sublett, City Clerk

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**(DELINEATED)**

**Sec. 10.16.010.**

**“Definitions.”** Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms shall, for the purpose of this chapter, have the meanings indicated in this section:

(a) ~~DRIVEWAY. "Driveway" means a place on private property for the operation of automobiles and other vehicles.~~

(b) ~~DRIVEWAY APPROACH. "Driveway approach" means an area, construction or facility between the roadway of a public street and private property intended to provide access for vehicles from the roadway of a public street to private property. For clarification, a driveway approach must provide access to something definite on private property, such as a parking area, a driveway or a door at least seven feet, intended and used for the entrance of vehicles.~~

(c) ~~OUTSIDE SIDEWALK LINE. "Outside sidewalk line" means a line lying along the edge of the sidewalk nearest the street roadway or Curb; or where no sidewalk exists, a line in the street Right-of-Way parallel to and four five (5) feet from the line of the private property.~~

(d) ~~CORNER. "Corner" means the point of intersection of the lines of two street curb faces extended into the street intersection.~~

(e) ~~CURB. "Curb" means a barrier at the edge of paved road or drive way approach to allow a separation of water flow and unpaved segments of right of way.~~

(f) ~~CURB PARKING SPACE. "Curbed parking space" means a length of curb equal to twenty feet where an automobile or other vehicle can park.~~

(g) ~~PARCEL OF LAND. "Parcel of land" means a lot or tract of land officially registered under one ownership.~~

(h) ~~CURB RETURN. "Curb return" means the portion of a curb next to a driveway approach which includes the radius of curvature, or the ramp type lug on commercial or industrial type pavements and which connects the driveway approach to the street curb.~~

~~(Ord. No. 40-317 § 1)~~

**Sec. 10.16.020.**

**“Cutting, breaking or removing of Ceurb.”** It shall be unlawful for any pPerson to cut, break out, ~~or~~ remove, or damage in any way any Ceurb along a street or alley except as authorized by Chapter 10.12.

~~(Ord. No. 16-935 § 2)~~

**Sec. 10.16.030.**

**“Approaches ~~which can be used only~~ as parking spaces or areas.”** It shall be unlawful for any pPerson to construct, alter, ~~or~~ extend, ~~or~~ permit, or cause to be constructed, altered, or extended, any Driveway approach ~~which~~that can be used only as a parking space or area between the Ceurb and private property.

~~(Ord. No. 16-935 § 2)~~

**Sec. 10.16.040.**

**“~~Effect of chapter on Chapter~~Subordination to Section 10.08.** ~~In no event shall~~ Tthis Chapter shall be construed as amending or abridging Chapter subordinate to Section 10.08.

~~(Ord. No. 16-935 § 2)~~

**~~Sec. 10.16.060.~~**

**“~~Revocation of permits.~~”** ~~All permits granted for the use of public property under the terms of this chapter shall be revocable at the will of the city council.~~

~~(Ord. No. 16-935 § 2)~~

**Sec. 10.16.070.**

**“Maximum width of approaches; exception.”** No Driveway approach shall exceed thirty (30) feet in width ~~as measured along the outside sidewalk line; unless such approach is approved in writing by the City Engineer or the City Engineer’s designee.~~provided, that Oon streets marked as permanent state or federal highway routes, a Driveway approach may be constructed with a maximum width of forty (40) feet upon written approval of the Ceity Engineer or the Traffic Engineer.

~~(Ord. No. 16-935 § 3)~~

**Sec. 10.16.080.**

**“Curb-parking spaces between approaches.”** Where more than one Driveway approach on a street front serves a single ~~parcel~~lot or tract of land, there shall be at least ~~one curb-parking space~~twenty (20) feet between Driveway approaches.

*(Ord. No. 16-935 § 3)*

**Sec. 10.16.090.**

**“Sides, edges or Curbs to be at right angles to street Curb.”** The ~~sides, edges or curbs~~centerline of Driveway approaches shall be at a right angles to the street Curb unless otherwise approved by the City Engineer or the Traffic Engineer.

*(Ord. No. 16-935 § 3)*

**Sec. 10.16.100.**

**“Maximum width of Curb cut.”** For the purpose of constructing a Driveway approach, ~~no curb cut, opening or section broken out or removed shall exceed fifty two feet~~the construction limits shall not exceed four (4) feet beyond the Drive approaches or to the nearest joint as directed by the City Engineer.

*(Ord. No. 16-935 § 4)*

**Sec. 10.16.120.**

**“Distance between Residential Driveway approach and street Corner distances.”** No portion of a Driveway approach, ~~except the curb return,~~ shall be constructed within four (4) feet of the projected straight line extension of the Right-of-Way line. In cases where the projected Right-of-Way line is less than fourteen (14) feet from the back of Curb of the perpendicular street, no portion of the Drive approach shall be constructed within eighteen (18) feet of the straight line extension of the back of the Curb of the perpendicular roadway. The City Engineer and/or Traffic Engineer shall have the right to allow exceptions to this section in the interest of public safety, a corner, and in no case closer than two feet to the property line extended.

*(Ord. No. 16-935 § 5)*

**Sec. 10.16.130.**

**“Curb return radius.”** The radius of curvature of the Curb return shall not exceed the distance between the Curb and the outside sidewalk line unless approved by the City Engineer or the City Engineer’s designee. However, in no case shall the radius intrude into the sidewalk.

In cases where no such sidewalk exists, the radius of curvature of the Curb return shall not exceed the distance between the Curb and five (5) feet from the Right-of-Way line.

*(Ord. No. 16-935 § 6)*

**Sec. 10.16.140.**

**“Interference with street Structures—Prohibited.”** No Driveway approach shall interfere with municipal facilities ~~such as~~ including, but not limited to drainage Structures, street-lighting poles, traffic-signal standards, signs, catch basins, hydrants, crosswalks, bus-loading platforms, utility poles, fire-alarm supports, underground pipes or ducts ~~or other necessary street structures.~~

*(Ord. No. 16-935 § 7)*

**Sec. 10.16.150.**

**“~~Same—~~Removal by city; cost.”** The Ceity Engineer is authorized to order and affect the removal or reconstruction of any Driveway approach, Curb or other Structure which is in violation of this chapter or which now conflicts with street Structures or which will conflict with street Structures in the future. The cost of removing or reconstructing or relocating such Driveway approaches, Curbs or any other Structure shall be at the expense of the abutting property owner.

*(Ord. No. 16-935 § 7)*

**Sec. 10.16.151.**

**“Same—Notice to remove or reconstruct any Drive approach or Curb which is in violation of this chapter.”** Whenever it is determined that a Drive approach, Curb or other structure shall be removed or reconstructed at the expense of the abutting property owner as allowed in Section 10.16.150, the City Engineer or the Engineer’s representative, shall serve or cause to be served upon such Person a notice requiring such Person to comply with the requirements of Section 10.16.150. Such notice may be served by mailing the same, postage prepaid and certified, to the owner of record.

**Sec. 10.16.152.**

**“Same—Failure to comply with notice.** If the owner or occupant of a parcel fails to remove or reconstruct the Drive approach, Curb or other structure in accordance with the specifications on file with the City Engineer, after having been given the notice provided for in

Section 10.16.151, the removal or reconstruction may be made by or under the direction of the City Engineer or the Engineer's representative, and the expense thereof taxed against the abutting parcel and such tax shall be levied, certified and collected in the same manner as special assessment taxes for the repair and construction of sidewalks.

**Sec. 10.16.160.**

**“Cooperation between ~~building inspection superintendent~~Director of the Metropolitan Area Building and Construction Department (MABCD) and Ceity Eengineer.** Any plans submitted to the ~~building inspection superintendent~~Director of MABCD for approval ~~which~~that include or involve unusual ~~Driveway~~ approaches or problems, shall be referred by the ~~building inspection superintendent~~Director of the MABCD to the Ceity Eengineer for ~~his~~ approval before a building permit is issued.

*(Ord. No. 16-935 § 8)*

**Sec. 10.16.170.**

**“Variances from strict application of chapter.”** The Ceity Eengineer is hereby authorized to grant, in writing, variances from the strict application of the provisions of this chapter; provided, ~~that he first determines~~ that one of the following conditions ~~are~~is present:

1. The exception or variance desired arises from ~~peculiar~~unique physical conditions not ordinarily existing in similar districts in the city or is due to the nature of the business or operation on the abutting property.
2. The exception or variance desired is not against the public interest, particularly safety, convenience, and general welfare.
3. The granting of the permit for the exception or variance will not adversely affect the rights of adjacent property owners or tenants.
4. The strict application of the terms of this chapter will work unnecessary hardship on the property owner or tenant.

*(Ord. No. 16-935 § 9)*

**Sec. 10.16.180.**

**“Appeals.”** Any decision by the Ceity Eengineer either granting or refusing to grant variances to the strict application of this chapter may be appealed in writing to the Ceity Ceouncil by the party adversely affected, provided such appeal is filed in writing with the Ceity

Clerk within twenty (20) days after the issuance of the ~~adverse decision or action complained~~  
of. The City Clerk will docket the appeal for hearing before the City Council.

*(Ord. No. 27-897 § 1)*

**Sec. 10.16.190.**

**“Curb numbering.”** No Curb shall be lettered or numbered in any way except that residential street address numbers may be painted on Curbs in front of residential street addresses. Curb numbering must conform to the following standards:

(1) Numbers must be black on white background;

(2) Numbering must be in block print, four (4) inches in height, three-fourths-inch (3/4”) stroke, and there must be a space of at least one-fourth (1/4) inch and no more than one (1) inch in between numbers;

(3) No numbers may be painted in restricted zones, that is, where Curbs are painted yellow or red or where parking is restricted;

(4) Numbers must be placed at the end of the Curb return on the street on which the residence is addressed and which is closest to the center of the frontage of the property or residence entrance, or, if no such curb return exists, then the numbers must be placed, insofar as possible, in direct line with the entrance of the residence.

The City may remove addresses for which the numbers are not in conformity with these standards. The City has no obligation to replace numbering, damaged or removed in the process of street maintenance activities.

*(Ord. No. 40-317 § 2)*



CLEAN

(First Published in *The Wichita Eagle*, on April 29, 2016)

ORDINANCE NO. 50-181

AN ORDINANCE REPEALING SECTION 10.24.160 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO MOVING BUILDINGS ON THE RIGHT-OF-WAY.

AN ORDINANCE ADMENDING SECTIONS 10.24.010, 10.24.020, 10.24.030, 10.24.040, 10.24.050, 10.24.060, 10.24.070, 10.24.080, 10.24.090, 10.24.100, 10.24.110, 10.24.120, 10.24.130, 10.24.140, 10.24.150, 10.24.170, 10.24.180, 10.24.190, 10.24.200, 10.24.210, 10.24.220, 10.24.230, 10.24.240, 10.24.250, 10.24.260, 10.24.270, 10.24.280, 10.24.290, AND 10.24.300 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO MOVING BUILDINGS ON THE RIGHT-OF-WAY AND REPEALING THE ORIGINALS THEREOF.

AN ORDINANCE CREATING SECTIONS 10.24.075, 10.24.095 AND 10.24.310 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO MOVING BUILDINGS ON THE RIGHT-OF-WAY.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 10.24.010 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Definitions.”** The following words and phrases as used in this Chapter shall, for the purpose of this Chapter, have the meanings respectively ascribed to them in this section:

(a) Building. Means any Structure used or intended for supporting or sheltering any use or occupancy that is:

- (1) two hundred (200) square feet or more in floor space;
- (2) thirteen and a half (13.5) feet in loaded height; or
- (3) is not a house trailer as defined in Section 11.04.126.

(b) Moving Contractor. Means a contractor who has been licensed as required by Section 10.24.070 of this Chapter to obtain required permits for the moving of a building over public streets, alleys, or rights of way.

(c) Moving Permit. Means the permit issued by the City permitting a building to move over public streets, alleys, or rights of way, as provided in Section 10.24.030.

SECTION 2. Section 10.24.020 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Prerequisites to apply for a moving permit.”** Before moving any building over, along or upon any of the streets, alleys, or rights of way, a moving permit shall be obtained. The following prerequisites shall be required before such moving permit shall be obtained:

(a) File a permit bond with the City Clerk which shall be approved as to form by the City Attorney, in the sum of one hundred thousand (100,000.00) dollars, which bond shall be signed by a surety company which is authorized to transact business in the state. Such bond shall provide for compensation for all damages resulting from the moving of the building.

(b) Provide a certificate of insurance of at least five hundred thousand (500,000.00) dollars from a company authorized to provide insurance in the State of Kansas and naming the City as an additional insured.

(c) Agree to indemnify, defend, and hold harmless the City from any and all claims, actions, suits, or demands for damages or injuries to persons or property, regardless of nature or character, resulting from the moving of the building.

(d) File an application with the Metropolitan Area Building and Construction Department (MABCD), including a fee of one hundred (100.00) dollars and a report by a structural engineer licensed in the State of Kansas determining the Structure is safe and suitable to be moved, and including any special requirements necessary for such moving. Upon receipt of the application, the Director of the MABCD or designee shall inspect the building to determine compatibility with the new location if such location is within the City and whether any other changes of any type should be made to such building before or after moving.

(e) Agree to comply with any special conditions imposed by the Director of the MABCD for the safety and welfare of the public.

(f) Obtain a building permit for the new location if the building is to be relocated within the city limits of Wichita. The building permit shall include any footing/foundation and require the updating of the electrical, plumbing and mechanical systems to the current building code.

SECTION 3. Section 10.24.030 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Same—Approval of route by Traffic Engineer.”** The Traffic Engineer or designee is authorized to require a route consistent with public safety and a minimum amount of damage.

SECTION 4. Section 10.24.040 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Same—Approval of route by Director of Parks.”** The Director of Parks or designee is authorized to require a route consistent with minimal damage to City trees and may require the planting of trees necessary to remediate any damage. The Director of Parks shall provide the moving contractor an invoice for the estimated costs for moving, modifying, or otherwise disturbing any existing City trees or related infrastructure.

SECTION 5. Section 10.24.050 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Same—Approval of route by Maintenance Engineer.”** The Maintenance Engineer or designee is authorized to require a route consistent with public safety and a minimum amount of damage. The Maintenance Engineer shall provide the moving contractor an invoice for the estimated costs for moving, modifying, or otherwise disturbing any existing City facilities.

SECTION 6. Section 10.24.060 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Same—Issuance of Permit.”** The moving permit shall be issued after approval has been granted under the above sections, the moving contractor has obtained a license under this section, the moving contractor’s annual license is current and valid, and any invoices charged by the Maintenance Engineer and the Director of Parks have been paid. Any such payments shall be directly credited to the Object Cost Account for which the materials and labor were debited.

SECTION 7. Section 10.24.070 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Same—License Required.”** It is unlawful for any Person to perform or cause to be performed any work as a moving contractor without first having obtained a moving contractor’s license and the appropriate moving permit. A conviction of one Person under this section does not preclude any additional individuals violating this section for the same work from being prosecuted under this section.

SECTION 8. Section 10.24.075 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Licensing authority.”** The MABCD shall issue licenses to approved moving contractors as outlined in Sections 18.12.120, 18.12.130 and 18.12.160. Licenses may be revoked or suspended as outlined in Section 18.12.140 of the Code of the City of Wichita. The moving contractor license shall entitle the holder thereof to contract for and perform any act as a moving contractor. The annual license fee for a moving contractor shall be one hundred (100.00) dollars, which shall be valid for the calendar year and shall not be prorated.

SECTION 9. Section 10.24.080 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Payment of cost of damages.”** The moving contractor shall be responsible for all damages caused by the moving of a building. Damages to trees, property, infrastructure, or Right-of-Way shall be the responsibility of the moving contractor upon being presented with a statement by the Department of Public Works & Utilities and/or the Park Department, showing the cost of repairing such damage, which shall be paid within ninety (90) days of invoicing. Failure to object to the City’s estimated costs of repair within such ninety (90) day period shall constitute a waiver of the right to object. The lack of or the falsification of a moving permit shall be considered intent under Section 5.66.010, Criminal Damage to Property.

SECTION 10. Section 10.24.090 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Requirements during movement of building.”** A copy of the moving permit shall accompany the Structure being moved at all times and must be presented upon request. The Permittee shall notify emergency services (911) and, if required, Kansas One Call, prior to moving the building.

SECTION 11. Section 10.24.095 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Falsification of moving permit; invalidation.** Falsification of a moving permit or deviation from any of the permit’s conditions shall invalidate the permit.

SECTION 12. Section 10.24.100 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Duty to halt moving, etc.”** The City Manager, the Traffic Engineer, the Maintenance Engineer, the Director of Parks, the Director of MABCD, their agents, and any sworn law enforcement officer shall have the duty and power to stop the moving of any building when a valid permit to move such building is not presented upon request or when such moving constitutes, in that individual’s opinion, a hazard to people or property.

SECTION 13. Section 10.24.110 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Building being moved into City halted pending compliance.”** All buildings being moved into the corporate limits of the City shall be halted outside the City limits until all provisions of this Chapter have been satisfied.

SECTION 14. Section 10.24.120 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Use of license to secure permits for another.”** No Person shall allow another to use another’s name or bond in securing permits to move any building.

SECTION 15. Section 10.24.130 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Private sewers and utilities to be sealed off and/or disconnected; duty of mover.”** Before any building or Structure is moved, it shall be the responsibility of the mover to ensure and verify all utilities are appropriately and safely disconnected. Sanitary sewer systems serving such Structures shall be severed and sealed safely, subject to Section 16.04.020.

SECTION 16. Section 10.24.140 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Requirements as to small one-story buildings, garages, accessory buildings, etc.”** Whenever a Structure is moved that does not require a building permit, the entities involved in moving such Structure, by moving the Structure, agree to indemnify, defend, and hold harmless the City from any and all claims, actions, suits, or demands for damages or injuries to persons or property, regardless of nature or character, resulting from the moving of the Structure. Such moving may require a City and/or State of Kansas oversize or overweight permit.

SECTION 17. Section 10.24.150 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Exceptions as to construction offices or cook shacks.”** No moving permit or bond shall be required for the moving of any construction office or cook shack when such Structure is permanently mounted upon a vehicle meeting the requirements of Title 11.

SECTION 18. Section 10.24.160 of the Code of the City of Wichita, Kansas, is hereby repealed.

SECTION 19. Section 10.24.170 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Maximum axle weights, damage.”** The requirements of K.S.A. § 9-1911 *et. seq.* shall apply to all vehicles used to move buildings with regards to a maximum axle loading. Loads shall be configured in such a manner as to minimize damage to the streets, gutters, Curbs, and other property. Any entity causing damage to any property shall be liable for such damage.

SECTION 20. Section 10.24.180 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Planks may be placed under wheels.”** The Traffic Engineer may specify the use of load-distributing devices when moving any building or Structure. In general, such devices shall be at least nominal 2” x 12” lumber, a minimum of two (2) times the supported tire diameter in length, and free of checks, splits, rough edges, splinters, or warping.

SECTION 21. Section 10.24.190 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Driving stakes into pavement, etc.”** In no case shall any Person moving any building drive any stake in the pavement. Stakes may be in the Right-of-Way, but not in such a position as may cause damage.

SECTION 22. Section 10.24.200 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Moving over bridges, culverts, and other Structures.”** No building shall be moved over any bridge, culvert, or other similar Structure without first verifying the load capacity of the Structure and obtaining specific written approval from the Traffic Engineer.

SECTION 23. Section 10.24.210 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Report of commencement and completion of moving.”** Prior to moving any building, the mover shall give actual notice to the Maintenance Engineer and the MABCD of the time the

building will be moved. Such notice shall be given during regular office hours. Arrival of the building at its final destination shall also be reported to the Maintenance Engineer and the MABCD within one business day.

SECTION 24. Section 10.24.220 of the Code of the City of Wichita, Kansas, is hereby repealed.

SECTION 25. Section 10.24.230 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Inspection of route over which building moved; repair of damages.”** The route over which a building has been moved shall be inspected by the Maintenance Engineer within two (2) business days after the building is reported moved. The Maintenance Engineer shall ascertain what damage, if any, has been done to the paving or other public Structures and shall proceed to repair the damage.

SECTION 26. Section 10.24.240 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Restriction as to hours of moving, etc., in certain areas and on certain streets.”** No building shall be moved or left standing upon any City street except between the hours of 1 a.m. and 6 a.m. without written permission of the Traffic Engineer.

SECTION 27. Section 10.24.250 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Protection of trees; notice to Director of Parks.”** Every Person moving any building shall use reasonable care to prevent injury to trees. The MABCD shall notify the Director of Parks when moving of such building begins in order that the Director of Parks may take the necessary steps for the protection of trees along the moving route, at the expense of the Person moving the building.

SECTION 28. Section 10.24.260 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Lights required from dusk to dawn.”** Every Person moving any building shall keep amber lights on such building and on the machinery used in moving the building from dusk to dawn. A sufficient number of red lights shall be used to make the obstruction safe.

SECTION 29. Section 10.24.270 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Compliance with the Manual on Uniform Traffic Control Required.”** All requirements of the current edition of the Manual on Uniform Traffic Control Devices regarding temporary traffic control must be followed.

SECTION 30. Section 10.24.280 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Interference with traffic; notice to emergency services; flaggers required.”** If, at any time during the moving of any building, it is unsafe for vehicles to pass by the building or the public welfare is endangered, the Person moving the building shall immediately inform Sedgwick County Emergency Communications by calling 911. The Person moving the building shall also post flaggers at the intersecting streets ahead and behind of the building to detour traffic.

SECTION 31. Section 10.24.290 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Blocking streets; prohibition.”** No building shall be left in such a position as to block the entire roadway. Unless it is impossible to do so, a passage of at least ten (10) feet on one side of the building shall be left at all times.

SECTION 32. Section 10.24.300 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Interference with overhead infrastructure, etc.; notice to Person owning or controlling; cost of repair.”** If any building will not pass under any overhead infrastructure, including wires, cables, streetlights, signs, or signals, the Person moving such building shall give at least seventy-two (72) hours' actual notice to the Person owning or controlling the infrastructure of the intention to move such building and at least eight (8) hours' actual notice of the time of the actual moving of such building. The Person owning or controlling such infrastructure shall then raise, cut, or remove the same for a reasonable length of time for such building to pass. Such infrastructure shall then, at the infrastructure's owner's discretion, be repaired and put in as good condition as before the raising, cutting or removal at the expense of the Person moving such building. The Person owning or operating the infrastructure shall furnish an itemized statement of the actual costs to the Person moving the building within forty-five (45) days of the completion of the repair, unless waived, the expense to be only the actual cost of such raising, cutting, removal and replacement. However, the owner of any overhead infrastructure



existing lower than specified by this Code or by any other ordinances of the City must reinstall such infrastructure to current code specifications without charge.

SECTION 33. Section 10.24.310 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Compliance with Chapter required; penalty.”** Failure to comply with any provision of this Chapter is a misdemeanor punishable by a fine up to five-thousand dollars (\$5,000) and/or imprisonment up to thirty (30) days.

SECTION 34. The original of Sections 10.24.010, 10.24.020, 10.24.030, 10.24.040, 10.24.050, 10.24.060, 10.24.070, 10.24.080, 10.24.090, 10.24.100, 10.24.110, 10.24.120, 10.24.130, 10.24.140, 10.24.150, 10.24.160, 10.24.170, 10.24.180, 10.24.190, 10.24.200, 10.24.210, 10.24.220, 10.24.230, 10.24.240, 10.24.250, 10.24.260, 10.24.270, 10.24.280, 10.24.290, and 10.24.300 of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 35. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official City paper.

PASSED by the governing body of the City of Wichita, Kansas this 26th day of April, 2016.

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Jeff Longwell, Mayor

ATTEST:

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Karen Sublett, City Clerk

Approved as to Form:

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Jennifer Magaña  
Director of Law and City Attorney

## CERTIFICATE

I hereby certify that the foregoing is a true and correct copy of the original ordinance; that said Ordinance was passed on \_\_\_\_\_, 2016; that the record of the final vote on its passage is found on page \_\_\_\_ of journal \_\_\_\_; and that the Ordinance was published in ***The Wichita Eagle*** on \_\_\_\_\_, 2016.

DATED: \_\_\_\_\_

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Karen Sublett, City Clerk

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## DELINEATED

### **Sec. 10.24.010.**

**“Definitions.”** The following words and phrases as used in this Chapter shall, for the purpose of this Chapter, have the meanings respectively ascribed to them in this section:

(a) ~~Building, Structure. The words "building" and "structure" shall be defined to be any construction artificially built up or composed of parts joined together in some definite manner.~~ Means any Structure used or intended for supporting or sheltering any use or occupancy that is (1) two hundred (200) square feet or more in floor space; (2) thirteen and a half (13.5) feet in loaded height; or (3) is not a house trailer as defined in Section 11.04.126.

(b) ~~Moving Contractor Permit. The words "moving permit" shall be defined to be the permit issued by the superintendent of public works maintenance permitting a structure to move.~~ Means a contractor who has been licensed as required by Section 10.24.070 of this chapter to obtain required permits for the moving of a building over public streets, or alleys, or rights of way.

(c) ~~Removal Moving Permit. A "removal permit" shall be defined to be~~ Means the permit issued by the building inspection superintendent for the moving of a structure from its existing location where it is necessary to pass City permitting a building to move over public streets, or alleys, or rights of way, as provided in Section 10.24.030.

~~(Ord. No. 15-668 § 1)~~

### **Sec. 10.24.020.**

**“~~Bonds p~~Prerequisites to applying for a removal moving permit.”**

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~~\*Case law references: For case upholding authority of city to require such bond, see *Tandy v. City of Wichita*, 266 P. 930.~~

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~~Every person, b~~Before moving any building over, along or upon any of the streets, alleys, boulevards or other public grounds within the city limits, ~~from the location upon which it now stands or is hereafter placed to any other location shall, before applying for a removal rights of way, a moving permit as provided in Section 10.24.030~~shall be obtained. The following prerequisites shall be required before such moving permit shall be obtained:

(a) ~~Protection of City.~~ File a continuous permit bond with the ~~e~~City ~~e~~Clerk which shall be approved as to form by the ~~e~~City aAttorney, in the sum of ~~three thousand five one hundred thousand 100,000.00~~ dollars, which bond shall be signed by a surety company, ~~as surety,~~ which is authorized to transact business in the state. Such bond shall ~~have the following conditions:~~provide for compensation for all damages resulting from the moving of the building.

~~(1) The obligor shall pay to the city or to the board of park commissioners, as the case may be, for any and all damages to streets, pavements, sidewalks, curbs, gutters, bridges, culverts, sewers, trees, public works or public utilities in the city, by reason of the moving of any building by the obligor over, across or upon any of the streets, alleys, boulevards or other public grounds of the city;~~

(b) Provide a certificate of insurance of at least five hundred thousand (500,000.00) dollars from a company authorized to provide insurance in the State of Kansas and naming the City as an additional insured.

~~(2) The obligor will save and~~

(c) Agree to indemnify, defend, and hold the city harmless the City from any and all claims, actions, suits, or demands for damages or injuries to persons or property, regardless of nature or character, which may be caused by the occupancy of any streets, alleys, boulevards or other public grounds by resulting from the moving of anythe building. by the obligor and for all of the negligent acts or omissions of the principal or obligor;

~~(b) Protection of Wires, Conduits, Etc., of Certain Persons, Etc. File a continuous bond with the city clerk which shall be approved as to form by the city attorney, and as to sufficiency of surety by the board of commissioners, in the sum of one thousand dollars, conditioned that the obligor will pay to the person, all bills owing to such person, incurred in the removal, cutting or raising of, and the replacement of wires, conduits, pipes or other equipment of such person, by reason of the moving of such structure over, along or upon any of the streets, alleys, boulevards or other~~

~~public grounds of the city, together with all expenses or bills which may be incurred by reason of the damage, removal or relocation of such equipment to allow the passage of such structure, and also all necessary expenses which may be incurred by the board of park commissioners in the furnishing of protection to the city trees for the moving of the structure over, along or upon any streets, alleys, boulevards or other public grounds of the city.~~

~~(Ord. No. 33-580; Ord. No. 15-668 § 2)~~

(d) File an application with the Metropolitan Area Building and Construction Department (MABCD), including a fee of one hundred (100.00) dollars, and a report by a structural engineer licensed in the State of Kansas determining the Structure is safe and suitable to be moved, and including any special requirements necessary for such moving. Upon receipt of the application, the Director of the MABCD or designee shall inspect the building to determine compatibility with the new location if such location is within the City and whether any other changes of any type should be made to such building before or after moving.

(e) Agree to comply with any special conditions imposed by the Director of the MABCD for the safety and welfare of the public.

(f) Obtain a building permit for the new location if the building is to be relocated within the city limits of Wichita. The building permit shall include any footing/foundation and require the updating of the electrical, plumbing and mechanical systems to the current building code.

#### **Sec. 10.24.030.**

~~**“Same—Approval of route by Traffic Engineer.”**Removal permit—Inspection of building prerequisite to issuance; inspection fee, etc.~~ Every person having complied with the requirements of Section 10.24.020, who desires to move any building over, along or upon any of the streets, alleys, boulevards or other public grounds of the city shall, before beginning the removal of such building, file an application with the building inspection superintendent for an inspection of the building to be removed. Upon the filing of such application, such person shall pay to the building inspection division an inspection fee of three dollars. The building inspection superintendent shall then inspect the building to determine whether or not it is wise or safe to move such building, and also to determine if any changes should be made in such building before or after moving. If the building inspection superintendent finds that it is unwise or unsafe

~~to move such building, he shall refuse to issue a removal permit, or if the building inspection superintendent finds that certain changes are necessary before or after the building is moved, he shall require, as a condition to the issuance of such removal permit, an agreement by the person applying for such permit that he will comply with such conditions as may be imposed to protect the public. The Traffic Engineer or designee is authorized to require a route consistent with public safety and a minimum amount of damage.~~

~~(Ord. No. 22-815 § 1)~~

**Sec. 10.24.040.**

~~“Same--Approval of route by dDirector of pParks upon granting.” If a removal permit is granted by the building inspection superintendent such permit shall then be taken to tThe dDirector of pParks or designee for approval of the route selected for the moving of such building. Should the route selected by the applicant meet the disapproval of the director of parks because of possible damage to city trees by reason of the moving of such building, the director of parks is authorized to change such route selecting as direct require a route as possible for such moving, consistent with a minimalum amount of damage to eCity trees and may require the planting of trees necessary to remediate any damage done by moving. If in the opinion of the director of parks, the building cannot be moved without serious damage to city trees, he shall refuse to give his approval of any route for the moving of such building. If the building can be moved without serious damage to city trees, tThe dDirector of pParks shall endorse the removal permit, giving the route to be followed.provide the moving contractor an invoice for the estimated costs for moving, modifying, or otherwise disturbing any existing City trees or related infrastructure.~~

~~(Ord. No. 19-963 § 1)~~

**Sec. 10.24.050.**

~~“Same--Approval of route by eCityMaintenance eEngineer.” The Maintenance Engineer or designee is authorized to require a route consistent with public safety and a minimum amount of damage. The Maintenance Engineer shall provide the moving contractor an invoice for the estimated costs for moving, modifying, or otherwise disturbing any existing City facilities.Upon the approval of the route, as required by the preceding section, the applicant shall then take the removal permit to the office of the city engineer, who shall determine whether the building can be removed, without serious damage to the pavements, culverts, sewers or other public~~

~~improvements of the city. If in the opinion of the city engineer the building can be moved without serious damage to the pavements, culverts, sewers or other public improvements, the city engineer shall endorse thereon his approval, together with the charges to be made for the movement of the building over, along or upon the streets, alleys, boulevards or other public grounds of the city.~~

~~(Ord. No. 19 963 § 1)~~

**Sec. 10.24.060.**

~~“Same--Presentation to superintendent of public works maintenance; i~~**Issuance of Permit.**~~” The moving permit shall be issued after approval has been granted under the above sections, the moving contractor has obtained a license under this section, the moving contractor’s annual license is current and valid, and any invoices charged by the Maintenance Engineer and the Director of Parks have been paid. Any such payments shall be directly credited to the Object Cost Account for which the materials and labor were debited.~~The moving permit shall be issued after approval has been granted under the above sections, the moving contractor has obtained a license under this section, the moving contractor’s annual license is current and valid, and any invoices charged by the Maintenance Engineer and the Director of Parks have been paid. Any such payments shall be directly credited to the Object Cost Account for which the materials and labor were debited.~~Upon approval of the removal permit by the city engineer, as required by the preceding section, the applicant shall then take the removal permit to the office of the superintendent of public works maintenance who shall, upon the payment of the charge to be made for moving over paved streets, alleys or boulevards, as provided in Section 10.24.070, issue a moving permit to the applicant to move such building over the streets, alleys, boulevards and other public grounds of the city, upon the route approved by the director of parks.~~

~~(Ord. No. 19 963 § 1)~~

**Sec. 10.24.070.**

~~“Same—~~**License Required**~~Charge.” It is unlawful for any Person to perform or cause to be performed any work as a moving contractor without first having obtained a moving contractor’s license and the appropriate moving permit. A conviction of one Person under this section does not preclude any additional individuals violating this section for the same work from being prosecuted under this section.~~It is unlawful for any Person to perform or cause to be performed any work as a moving contractor without first having obtained a moving contractor’s license and the appropriate moving permit. A conviction of one Person under this section does not preclude any additional individuals violating this section for the same work from being prosecuted under this section.~~Every person having secured a removal permit, approved and endorsed by the persons designated in Sections 10.24.030 to 10.24.060, shall, before he is granted a moving permit to move the structure over the streets, alleys, boulevards and other public grounds of the city by the director of public works, pay to the director of public works the following charge:~~

~~(1) Paved Streets, Etc. On all paved streets, alleys or boulevards, thirty five dollars.~~

~~(2) Unpaved Streets, Etc. On all unpaved streets, alleys or boulevards, no charge.~~

~~(Ord. No. 40-057 § 1)~~

**Sec. 10.24.075.**

**“Licensing authority.”** The Board of Building Code Standards and Appeals shall issue licenses to approved moving contractors as outlined in Sections 18.12.120, 18.12.130 and 18.12.160. Licenses may be revoked or suspended as outlined in Section 18.12.140 of the Code of the City of Wichita. The moving contractor license shall entitle the holder thereof to contract for and perform any act as a moving contractor. The annual license fee for a moving contractor shall be one hundred (100.00) dollars, which shall be valid for the calendar year and shall not be prorated.

**Sec. 10.24.080.**

**“Payment of cost of damages.”** ~~The moving contractor shall be responsible for all damages caused by~~After an inspection has been made by the superintendent of public works maintenance, following the moving of a structure, ~~building, under the provisions of this chapter, and after all damages, if any, to streets, pavements, sidewalks, curbs, gutters, bridges, culverts, sewers, Damage to City trees, property, infrastructure, or Right-of-Way shall be the responsibility of the moving contractor~~or other public works or utilities, have been repaired by the city, the amount of damage shall be paid by the person moving the structure, upon his being presented with a statement by the ~~d~~Department of ~~p~~Public ~~w~~Works & Utilities and/or the Park Department, showing the cost of repairing such damage, which shall be paid within ninety (90) days of invoicing. Failure to object to the City’s estimated costs of repair within such ninety (90) day period shall constitute a waiver of the right to object. The lack of or the falsification of a moving permit shall be considered intent under Section 5.66.010, Criminal Damage to Property.

~~(Ord. No. 15-688 § 5)~~

**Sec. 10.24.090.**

**“Requirements during movement of building**~~Moving permit to accompany structure.”~~  
~~A copy of~~ The moving permit required by this chapter shall at all times accompany the Structure being moved at all times and must be presented upon request. The Permittee shall notify emergency services (911) and, if required, Kansas One Call, prior to moving the building, ~~under such permit.~~

~~(Ord. No. 15-668 § 7)~~



**Sec. 10.24.095.**

**“Falsification of moving permit; invalidation.”** Falsification of a moving permit or deviation from any of the permit’s conditions shall invalidate the permit.

**Sec. 10.24.100.**

**“Power and duty of city officers to halt moving, etc.”** The eCity mManager, the city Traffic eEngineer, the superintendent of public works mMaintenance Engineer, the supervisor Director of pParks-forestry, the Director of MABCD, their agents, building inspection superintendent or and any policeesworn law enforcement officer of the eCity shall have the duty and powerright at all times to haltstop the moving of any structurebuilding over, along or upon any of the streets, alleys, boulevards or other public grounds of the city when such moving is being done in a dangerous, careless or inefficient manner, likely to lead to serious damage to paving, curb, gutter or any other public structures, or a valid permit to move such building is not presented upon request or when such moving constitutes, in that individual’s opinion, a hazard to peoplerson or property, due to a lack of proper equipment for such moving, inexperienced employees, lack of proper supervision, or from any other cause, and it is hereby made their duty to halt the moving until such lack of proper method has been corrected. It shall also be the duty of any of the officers mentioned above to halt the loading of any structure until the necessary provisions of this chapter have been complied with.

(Ord. No. 15-668 § 7)

**Sec. 10.24.110.**

**“StructuresBuilding being moved into eCity to be halted until chapterpending complianced with; exceptions.”** All structures, except those included under Sections 10.24.140 and 10.24.150, buildings being moved into the corporate limits of the eCity; shall be halted outside the eCity limits until all provisions of this Chapter, relative to bonds, inspections and permits, have been satisfiedeomplied with by the person moving the structure.

(Ord. No. 15-668 § 8)

**Sec. 10.24.120.**

**“Use of name and bond of another license to secure permits for another.”** No Pperson; after having filed the bonds required in Section 10.24.020, shall be permitted to allow another person to use his or her name andor bond in securing permits to move any buildingstructure over, along or upon any street, alley, boulevard or other public grounds of the city.

(Ord. No. 15-668 § 9)

**Sec. 10.24.130.**

**“Private sewers and utilities serving building to be sealed off and/or disconnected; duty of mover.”** Before a building or Structure is removed from a parcel of land, it shall be the responsibility of the licensed mover who has been issued a permit by the city to ensure and verify all utilities are appropriately and safely disconnected. ~~move such building to procure the services of a master drain layer to seal off any and all private sewers serving the building. This work will be done under a repair permit as given in subsection (2) of Sanitary sewer systems serving such Structures shall be severed and sealed safely, subject to in Section 16.04.020. The seal will be inspected by the superintendent of public works maintenance under the procedure established in Section 16.04.360.~~

(Ord. No. 19-152 § 20)

**Sec. 10.24.140.**

**“~~Exceptions~~Requirements as to small one-story buildings, garages, accessory buildings, etc.”** Whenever a Structure is moved that does not require a building permit, the entities involved in moving such Structure, by moving the Structure, agree to indemnify, defend, and hold harmless the City from any and all claims, actions, suits or demands for damages or injuries to persons or property, regardless of nature or character, resulting from the moving of the Structure. Such moving may require a City and/or State of Kansas oversize or overweight permit. ~~No permit or bond shall be required for the moving of any small one-story building not over fifteen feet high, such as garages, accessory buildings, poultry houses and construction offices or old railway cars, when such buildings have not to exceed three hundred square feet of floor area and one dimension not exceeding twelve feet; provided, that such building is loaded upon a pneumatic-tired truck, or a truck and not more than one pneumatic-tired two-wheel trailer. Every person shall before moving any such building, notify the chief of police. Every person shall, when moving any such building, use the highest degree of care so that no damage results to any person or property. In case damage to persons or property results from such moving, the city shall in no case be held liable for such damage. Bonds and permits, as provided for in this chapter, shall be required for the moving of any building over, along or upon any street, alley, boulevard or other public grounds of the city under which it is necessary to use heavy house moving timbers, housemoving trucks or other regular house moving equipment.~~

(Ord. No. 15-668 § 6)

**Sec. 10.24.150.**

**“Exceptions as to construction offices, or cook shacks ~~or house cars.~~”** No moving permit or bond shall be required for the moving of any construction office; or cook shack ~~or house car~~ when such Structure is permanently mounted upon a ~~pneumatic-tired~~ vehicle; provided, that the maximum width, height and length of such structure does not exceed that permitted under meeting the requirements of Title 11, for trucks and trailers. Every person shall, when moving any such structure, use the highest degree of care that no damage results to any person or property. In case damage to person or property results from such moving, the city shall in no case be held liable for such damage.

(Ord. No. 15-668, § 6)

**~~Sec. 10.24.160.~~**

**~~“Compliance with chapter required.”~~** Every person, when moving any structure over, upon or along the streets, alleys, boulevards or other public grounds, shall observe the rules and regulations contained in this chapter.

(Ord. No. 15-668 § 6)

**Sec. 10.24.170.**

**“Maximum axle weights, damage ~~To be supported on trucks; requirements as to trucks generally.~~”** The requirements of K.S.A. § 9-1911 *et. seq.* shall apply to all vehicles used to move buildings with regards to a maximum axle loading. Loads shall be configured in such a manner as to minimize damage to the streets, gutters, Curbs, and other property. Any entity causing damage to any property shall be liable for such damage. ~~All buildings being moved, except those permitted under sections 10.24.140 and 10.24.150, shall be supported as uniformly as possible on at least three trucks, each having four wheels at least twenty inches in diameter, but in every case they shall be of sufficient number and size to insure passage over the pavement without damage thereto. All trucks shall be designed so that turns may be made without damage to any public property. The mounting of the wheel shall be such that the weight shall bear uniformly on the tread.~~

(Ord. No. 15-668 § 6)

**Sec. 10.24.180.**

**“Planks may be placed under wheels.”** ~~When moving any structure, planks shall be placed under all wheels when and wherever specified by t~~The Traffic Engineer may specify the use of load-distributing devices when moving any building or Structure. In general, such devices~~superintendent of public works maintenance. The planks shall be at least a nominal 2” x 12” lumber, a minimum of two (2) times the supported tire diameter~~not less than twelve inches wide, two inches thick and ten feet long. In no case shall planks which are in length, and free of~~checks~~worn, splits, rough edges, warped or which have splintered or warped edges, be used.  
(Ord. No. 15-668 § 6)

**Sec. 10.24.190.**

**“Driving stakes into pavement, etc.”** ~~In no case shall any Pperson moving any building on any paved street, alley, boulevard or other public grounds of the city, drive any stake in the pavement for the purpose of pulling such building. Stakes may be in the Right-of-Way driven for such purpose in the parking back of the curb lines, but not in such a position as may caused~~o~~damage to any curb, driveway, sidewalk, catch basin, tree or any water meter, shut off box or like appurtenances of any public utility corporation. All holes left in parkings by stakes shall be filled with dirt by the person moving the building.~~

(Ord. No. 15-668 § 6)

**Sec. 10.24.200.**

**“Moving over ~~Arkansas River~~bridges, culverts, and other Structures or ~~Little Arkansas River.~~”** ~~No building~~structure, except those permitted under sections 10.24.140 and 10.24.150, shall be moved over any bridge, culvert, or other similar Structure across either the Arkansas River or the Little Arkansas River, unless specific approval in writing is obtained without first verifying the load capacity of the Structure and obtaining specific written approval from the city~~Traffic E~~Engineer.

(Ord. No. 15-668 § 6)

**Sec. 10.24.210.**

**“Report of commencement and completion of moving.”** ~~Every person~~Prior to moving any building~~structure over, along or upon the streets, alleys, boulevards or other public grounds of the city, the mover shall report~~give actual notice to the superintendent of public works~~m~~Maintenance Engineer and the MABCD of the time the building will be moved~~during the regular office hours the day of, or previous to the moving of such structure, when he intends to~~

~~start moving the structure. Such notice shall be given during regular office hours. The a~~Arrival of the ~~buildingstructure~~ at its final destination shall also be reported by the person moving the structure to the ~~superintendent of public works m~~Maintenance Engineer and the MABCD within ~~one business dayduring the regular office hours immediately following the arrival of the structure.~~

~~(Ord. No. 15-668 § 6)~~

#### **Sec. 10.24.220.**

~~“Prevention of unnecessary damage to paving, etc.”~~ Every person, when moving any structure over, along or upon the streets, alleys, boulevards or other public grounds of the city, shall use the highest degree of care to prevent any unnecessary damage to any paving, curb, gutter, sidewalk, catch basin or other public structures.

~~(Ord. No. 15-668 § 6)~~

#### **Sec. 10.24.230.**

~~“Inspection of route over which buildingstructure moved; repair of damages.”~~ The route over which a ~~buildingstructure~~ has been moved, ~~under the provisions of this chapter,~~ shall be inspected by the ~~superintendent of public works m~~Maintenance Engineer within two business days after the ~~buildingstructure~~ is reported moved. ~~He~~The Maintenance Engineer shall ascertain what damage, if any, has been done to the paving or other public Structures and shall proceed to repair the damage.

~~(Ord. No. 15-668 § 6)~~

#### **Sec. 10.24.240.**

~~“Restriction as to hours of moving, etc., in certain areas and on certain streets.”~~ No ~~buildingstructure, except those permitted in sections 10.24.140 and 10.24.150,~~ shall be moved over, along, upon or across, or left standing upon any of the marked state or federal highways through the ~~e~~City, or upon any through street designated and described by any current ordinance of the city, except between the hours of 1 ~~a.m.:~~00 A.M. and 7 ~~a.m.:~~00 A.M., without written permission of the ~~t~~Traffic ~~e~~Engineer.

~~No structure shall be moved over, along or upon any street or boulevard upon which commercial vehicles are prohibited by ordinance, on any street, boulevard or drive designated by the board of park commissioners as a park boulevard or drive.~~

#### **Sec. 10.24.250.**

**“Protection of trees; notice to Director of Parksboard of park commissioners.”** Every ~~Pperson, when moving any building over, along or upon the streets, alleys, boulevards or other public grounds of the city,~~ shall use ~~reasonable~~the highest degree of care to prevent injury to ~~e~~City trees. ~~Such person~~The MABCD shall notify the ~~Director of Parksboard of park commissioners~~ when ~~he starts to move~~moving of such building begins in order that the ~~Director of Parksboard of park commissioners~~ may take the necessary steps for the protection of trees along the ~~moving route of such moving,~~ at the expense of the ~~Pperson~~ moving the building.

~~(Ord. No. 15-668 § 6)~~

**Sec. 10.24.260.**

**“Lights required from dusk to dawn.”** Every ~~Pperson, when moving any building over, along or upon the streets, alleys, boulevards or other public grounds of the city,~~ shall keep ~~redamber~~ lights on such building and on the machinery used in moving the building from dusk to dawn. A sufficient number of ~~redamber~~ lights shall be used to make the obstruction ~~in the streets, alleys, boulevards or other public grounds safe for the traveling public.~~

~~(Ord. No. 15-668 § 6)~~

**Sec. 10.24.270.**

**“Barricade to be maintained; sign to be displayed.”** All requirements of the current edition of the Manual on Uniform Traffic Control Devices regarding temporary traffic control must be followed.~~During the actual moving of any building over, along or upon any street, alley, boulevard or other public grounds of the city, a barricade partially closing the street, with a standard highway caution type sign bearing the words "MEN WORKING" shall be displayed at all times near each intersecting street ahead and to the rear of the building, in the center of the street upon which the building is being moved.~~

~~(Ord. No. 15-668 § 6)~~

**Sec. 10.24.280.**

**“Interference with traffic; notice to ~~police and fire departments~~emergency services; flaggersman required.”** If, at any time during the actual moving of any building ~~upon any street, alley, boulevard or other public grounds of the city,~~ it is ~~not reasonably possible~~unsafe for vehicles to ~~safely pass by~~along the building or the public welfare is endangered, the ~~police and fire departments~~Person or Persons moving the building shall immediately inform Sedgwick County Emergency Communications by calling 911. ~~be notified by~~ the ~~Pperson or Persons~~

~~causing the moving the building shall also post flaggersto be done and a flagman shall be stationed at the intersecting streets ahead and to the rear behind of the building to detour traffic, around the block in which the building is located. The police department shall also be notified if it is necessary to remove any traffic regulatory device.~~

~~(Ord. No. 15-668 § 6)~~

**Sec. 10.24.290.**

**“Blocking streets; prohibitionmaximum time structure to be left standing.”** No building shall be ~~left standing in any street, alley, boulevard or other public grounds of the city in such a position as to block the entire roadway nor in any case shall it be left standing on or over such street, alley, boulevard or other public grounds for a period in excess of twenty four consecutive hours.~~ Unless it is impossible to do so, A passage of at least ten (10) feet on one side of the building shall be left at all times, ~~except when it is impossible to do so when the building is actually in motion.~~

~~(Ord. No. 15-668 § 6)~~

**Sec. 10.24.300.**

**“Interference with wiresoverhead infrastructure, etc.; notice to Pperson owning or controlling; cost of repair.”** ~~If in the moving of any building over, or along or upon any street, alley, boulevard or other public grounds of the city, such building will not pass under any overhead infrastructure including telephone wires, or cables, electric streetlights, wire signs, or other wires, without raising the same for such purposes~~signals, the Pperson moving such building shall give at least ~~forty-eight~~seventy-two (72) hours' actual notice to the Pperson owning or controlling the ~~cables or wires~~infrastructure of their intention to move such building, and at least ~~four~~eight (8) hours' actual notice ~~to the person owning or controlling the cables or wires,~~ of the time of the actual moving of such building. The Pperson owning or controlling the ~~wires~~such infrastructure shall then raise, cut, or remove the same. ~~The cable or wires may be raised or cut and remain raised or separated for a reasonable length of time for such building to pass, and~~ Such infrastructure shall then, at the infrastructure's owner's discretion, be repaired and put in as good condition as before the raising, cutting or removal ~~of the same~~ at the expense of the Pperson moving such building. The Pperson owning or operating the ~~poles, cables or wires~~infrastructure shall furnish, an itemized statement of the actual costs to the Person moving the building within ~~ninety~~forty-five (45) days of the completion of the ~~work, unto the person~~

~~moving the building, an itemized statement~~repair, unless waived, the expense to be only the actual cost of such raising, cutting, removal and replacement; ~~provided, that all wires or cables.~~  
However, the owner of any infrastructure existing lower than specified by this Code or any other ordinances of the eCity must be raised, reinstall such infrastructure to current code specifications free of without charge by the person owning the same.

~~(Ord. No. 15-668 § 6)~~

**Section 10.24.310.**

**“Compliance with Chapter required; penalty.”** Failure to comply with any provision of this Chapter is a misdemeanor punishable by a fine up to five-thousand (5,000) dollars and/or imprisonment up to thirty (30) days.



(CLEAN)

(First Published in *The Wichita Eagle*, on April 29, 2016)

ORDINANCE NO. 50-182

AN ORDINANCE REPEALING SECTIONS 10.20.010 AND 10.20.080 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO EXCAVATIONS IN THE RIGHT OF WAY.

AN ORDINANCE CREATING SECTION 10.20.055 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO EXCAVATIONS IN THE RIGHT OF WAY.

AN ORDINANCE ADMENDING SECTIONS 10.20.020, 10.20.030, 10.20.040, 10.20.050, 10.20.060, 10.20.070, 10.20.090, 10.20.100, 10.20.110, 10.20.120, 10.20.130, 10.20.140, 10.20.150, 10.20.170, 10.20.180 AND 10.20.190 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO EXCAVATIONS IN THE RIGHT OF WAY AND REPEALING THE ORIGINALS THEREOF.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 10.20.010 of the Code of the City of Wichita, Kansas, is hereby repealed:

SECTION 2. Section 10.20.020 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Applicability of Chapter.”** Any Excavation shall be subject to the provisions of this Chapter unless there is a written agreement otherwise.

SECTION 3. Section 10.20.030 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Permit required.”** Except for licensed and bonded contractors holding contracts to do work for the City, it is unlawful for any Person to make any Excavation in any Public place unless such Person has first obtained a permit from the City Engineer.

SECTION 4. Section 10.20.040 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Persons eligible for permits.”** The following Persons shall be eligible to secure permits to cut sidewalks or pavements, and to make Excavations in the City Right of way.

(1) CORPORATIONS. Any municipally operated utility or any corporation having a franchise or agreement to operate in the City;

(2) PLUMBERS AND DRAIN LAYERS. Plumbers or master drain layers with the current applicable license and surety bond in the sum of five (5,000) thousand dollars on file with the City Engineer;

(3) OTHER PERSONS; BOND, ETC, REQUIRED. Any other Person provided that such Person shall first file and maintain with the City Engineer, a surety bond in the sum of five (\$5,000) thousand dollars as hereinafter provided. Such bond shall require the principal to comply with all applicable laws, rules and ordinances. Such bond shall also require the principal will defend and hold the City harmless from any and all damages. Such liability on the part of the principal and surety shall continue until a release has been received from the City as provided in this Chapter.

SECTION 5. Section 10.20.050 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Application for permit; fees, issuance.”** Permits required by this Chapter may be issued to any municipally operated utility or public utility corporations having a franchise or agreement to operate in the City, upon application and subject to approval by the City Engineer. Such Person will be invoiced by the City with payment due within thirty-six (36) days of the invoice.

Any other eligible Person, other than those expressly excepted in Section 10.20.030, desiring a permit shall first make application to the City Engineer and shall pay a processing fee per block for cutting a paved surface in City Right of way as listed in Section 10.34.010, plus any repair costs incurred by the City. The City Engineer, at the City Engineer’s sole discretion, may require Excavation by trenchless methods.

A surcharge fee is assessed when an Excavation is made in any paved street or alley on which the pavement or resurfaced pavement is less than five (5) years old. The surcharge fee is five (5) percent of the permit fee plus the repair costs for each un-elapsed month, or fraction thereof, of the five (5) year period.

The permit fee, including any applicable surcharge fee, combined with the costs to the City for permanently repairing the pavement cut, constitutes the total permit fee.

A processing fee as listed in Section 10.34.010 shall be required for a permit to excavate in any unpaved City Right of way for the purpose of laying, repairing, or removing any main pipes, underground wires or other conduits. One permit shall be required for each block or portion of a block if the work is done with continuity. For the purpose of connecting, repairing or removing service pipes, underground pipes, underground wires or other conduits, or for any other purpose

not specifically mentioned herein, one permit shall be required for each connection unless such connection is made at the time of laying the main.

Permits are nonrefundable and nontransferable.

SECTION 6. Section 10.20.055 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

**“Refusal of permits and/or penalty for failure to obey rules and regulations.”** The City Engineer shall refuse permits to contractors who fail or refuse to obey all rules and regulations necessary in the enforcement of this Chapter. Any party, with or without a permit, shall be liable for all costs associated with the repair of the Excavation, including exploratory Excavation, when performed.

A penalty of double the cost of the permit will be charged for failure to obtain a permit prior to the beginning of work that will be performed on City Right-of-Way.

Any permits not paid within thirty-six (36) days after the date of invoice shall be subject to a penalty equal to the amount of the original permit fee. All such amounts not paid within sixty (60) days shall be subject to a penalty equal to four (4) times the original permit fee. All such amounts not paid within ninety (90) days will be turned over to the Permittee’s bonding company for the amount due plus four (4) times the original permit fee.

Any costs for a repair of an Excavation not paid within thirty-six (36) days after the date of invoice shall be subject to a penalty of ten (10) percent. Any repair costs not paid within sixty (60) days shall be subject to another ten (10) percent penalty. Any amounts owed by the Permittee may be offset against any amounts due or payable from the City, including withholding funds of any awarded project to reimburse the City for any outstanding debts. All such amounts not paid within ninety (90) days will be turned over to the Permittee’s bonding company for the amount due.

SECTION 7. Section 10.20.060 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Manual on Uniform Traffic Control Devices; compliance required.”** Any Person making Excavations or performing any other work in public Right of way shall comply with the latest edition of the “Manual on Uniform Traffic Control Devices,” as published by the Federal Highway Administration, U.S. Department of Transportation.

SECTION 8. Section 10.20.070 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Backfilling—Generally; removal of surplus material.”** All Excavations where sidewalk or pavement has been cut shall either be backfilled with clean sand, which shall be flushed and vibrated into place, or shall be backfilled with excavated material dampened and thoroughly compacted in six (6) inch layers until its density is equal to at least one hundred (100) percent of the density of the adjacent undisturbed soil. For vehicular pavements, the Excavation shall be compacted to within eight (8) inches of the surface; for pedestrian pavements, the Excavation shall be compacted to the bottom of the final sidewalk. Use of appropriate backfill material, including flowable fill, may be required by the City Engineer.

Temporary patches shall have a thickness equal to the full depth of the adjacent pavement and shall be compacted flush with the adjacent surfaces. Within twenty-four (24) hours, all surplus excavated material shall be removed from the location.

SECTION 9. Section 10.20.080 of the Code of the City of Wichita, Kansas, is hereby repealed.

SECTION 10. Section 10.20.090 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Same—Excavations within four (4) feet of existing or planned pavement, etc.”** Any Excavation in the Right of way that is less than four (4) feet from any existing or planned pavement, Curb, or sidewalk shall be backfilled and compacted to a density of at least one hundred (100) percent of the adjacent undisturbed soil. Use of appropriate backfill material, including flowable fill, may be required by the City Engineer.

SECTION 11. Section 10.20.100 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Same—Extra pavement removal required beyond edges of trenches or Excavations.”** The pavement repair of all street pavement cuts shall include additional pavement removal for a minimum distance of one (1) foot beyond the edges of the dirt Excavation. If such dirt cut is made within four (4) feet of an existing pavement joint or patch, Excavation shall extend to such joint or patch. Excavations should not include gutter pavement unless necessary. If gutter pavement is disturbed by actual Excavation or from compromise of the subgrade/lateral support as determined by the Engineer, such Curb shall be replaced. Such Excavation of pavement shall be done by use of a pavement saw and only after the previous dirt Excavation has been backfilled. The dimensions of a pavement cut, as given on the permit, shall include the extra Excavation of pavement beyond the edges of the dirt Excavation. All material and workmanship

shall conform to specifications on file in the office of the City Engineer, including the requirements of full-depth sawing.

SECTION 12. Section 10.20.110 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Same—With excavated material.”** All Excavations in any used or traveled portion of any unimproved street or alley, except as provided in the preceding section, may be backfilled with the excavated material; provided, that it shall be consolidated by mechanical compactor in six (6) inch layers to a density no less than one hundred (100) percent of the surrounding undisturbed soil. Surplus material shall be trimmed and removed.

SECTION 13. Section 10.20.120 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Duty of Person making Excavations.”** It shall be the duty of any Person making an Excavation to maintain all Excavations in a safe condition. All Excavations shall be marked by the Person performing the Excavation with a clearly identifiable contact name and telephone number. The Person shall confirm the contact name and telephone number are still present at the Excavation every five (5) days. Each failure to comply with this section is a misdemeanor, which may be issued directly to any agent of the Person performing or having the Excavation performed.

SECTION 14. Section 10.20.130 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Work to continue without interruption where Excavation made on expressways, freeways, arterial streets.”** Any Person having a project which requires an Excavation in a paved street classified by the City as an expressway, freeway, or arterial street, shall work continuously and diligently, without interruption and without regard for regular hours of work on the project, until the completion of the same, unless such interruption is approved by the Traffic Engineer before commencement of the project.

SECTION 15. Section 10.20.140 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Liability of Permittee for negligent acts, etc.; City to be saved harmless.”** Any Person making Excavations in the public Right of way shall at all times be liable for damages concerning the Excavation prior to the time the cut is permanently repaired and area restored, as provided for in this Chapter. Such Person shall defend and hold the City harmless from all suits,

claims or judgments for damages growing out of any act of commission or omission on the part of any Person performing work under this Chapter.

SECTION 16. Section 10.20.150 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Traffic Control.”** Any Person performing work in the Right of way shall comply with the latest edition of the “Manual on Uniform Traffic Control Devices” until the City's contractor completes permanent repairs.

SECTION 17. Section 10.20.170 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Contracting with paving contractor to do work.”** Any Person having a project necessitating an Excavation on any portion of paved City Right of way shall first obtain a pavement cut permit from the City Engineer. Permanent repair of the cut shall be done by the City's contractor under the inspection of the City Engineer, and all material and workmanship will conform to the specifications on file in the office of the City Engineer. The Person making the cuts shall be liable for the cost of repair of such cuts and for maintenance of traffic control as provided in the latest edition of the “Manual on Uniform Traffic Control Devices.” The Person will also comply with all applicable provisions of the Americans with Disabilities Act.

The Person making the cut shall also be liable for a period of ten (10) years for the maintenance of the repair, including its complete removal and replacement if the condition of the repair is such, in the opinion of the City Engineer, as to constitute a threat to the integrity or usability of the paved surface.

The City Engineer may require the Person making the cuts to contract with a paving contractor for repair of such cuts. The repair will be under the inspection of the City Engineer and all material and workmanship will conform to the specifications on file in the office of the City Engineer. The Person making the cuts shall be liable for cost of repair of such cuts, the costs of inspection, and responsible for traffic control as provided in the latest edition of the “Manual on Uniform Traffic Control Devices.” In no case shall any Person at any time or under any circumstance be allowed to perform any permanent repairs of any type or nature with regard to the repair of an Excavation without the written approval of the City Engineer, which shall be at the City Engineer’s sole discretion.

SECTION 18. Section 10.20.180 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Warranty of Restoration and Repairs.”** Any Person performing any dirt cut or pavement cut shall be solely responsible for the performance of the backfill for a period of five or ten years, respectively, including all related costs.

SECTION 19. Section 10.20.190 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Right of City to civil action to recover permit fees.”**

In addition to the penalty prescribed in Section 1.04.060, the City may recover in a civil action in any court of competent jurisdiction, the amount of the permit fees, late fees, and charges for any damages, plus reasonable attorney’s fees. No property of such debtor shall be exempt from forced sale under any process of law such indebtedness, except such exemptions as allowed by the Constitution and the laws of this state.

SECTION 20. The original of Sections 10.20.010, 10.20.020, 10.20.030, 10.20.040, 10.20.050, 10.20.060, 10.20.070, 10.20.080, 10.20.090, 10.20.100, 10.20.110, 10.20.120, 10.20.130, 10.20.140, 10.20.150, 10.20.170, 10.20.180 and 10.20.190 of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 20. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official City paper.

PASSED by the governing body of the City of Wichita, Kansas this 26th day of April, 2016.

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Jeff Longwell, Mayor

ATTEST:

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Karen Sublett, City Clerk

Approved as to Form:

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Jennifer Magaña  
Director of Law and City Attorney

## CERTIFICATE

I hereby certify that the foregoing is a true and correct copy of the original ordinance; that said Ordinance was passed on \_\_\_\_\_, 2016; that the record of the final vote on its passage is found on page \_\_\_\_ of journal \_\_\_\_; and that the Ordinance was published in ***The Wichita Eagle*** on \_\_\_\_\_, 2016.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Karen Sublett, City Clerk

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## DELINEATED

### **Section 10.20.010.**

#### **“Definitions.”**

(1) ~~An “excavation,” for the purpose of this chapter, means any opening in the surface of a public place made in any manner whatsoever, except an opening into a lawful structure below the surface of a public place, the top of which is flush with the adjoining surface and so constructed as to permit frequent openings without injury or damage to the public place.~~

(2) ~~“Public place” means any public street, way, grounds, place, parking, alley, sidewalk, park, square, plaza or any other public property owned or controlled by any governmental agency in a governmental capacity.~~

(3) ~~“Structure” means any pipe, conduit, duct, tunnel, manhole, vault, buried cable or wire, or any other structures located below the surface of any public place.~~

(4) ~~“Parking” means that unpaved area between the street curbs and the sidewalk or street right of way.~~

(5) ~~“Person” means any person, firm, partnership, association, corporation, company or organization of any kind.~~

~~(Ord. No. 28 940 § 1; Ord. No. 19 440 § 4)~~

### **Section 10.20.020.**

**“Applicability of Chapter.”** ~~Work on an~~Any ~~E~~excavation ~~made either as a result of obtaining a permit from the city to make such excavation, or as a result of entering into a contract with the city, shall be subject to the provisions of this Chapter; unless there is a written agreement otherwise, except that contracts with the city for the construction or reconstruction of storm sewers and/or sanitary sewers, as well as the complete repaving or resurfacing of an existing paved street, shall be exempt from this provision.~~

~~(Ord. No. 33 011 § 1; Ord. No. 19 440 § 4)~~

### **Section 10.20.030.**

**“Permit required.”** ~~It is unlawful for any person, e~~Except for ~~licensed and bonded contractors holding contracts to do construction work for the e~~City, it is unlawful for any Person ~~to cut any sidewalk or pavement, or make any E~~excavation in any Public place ~~of the streets, alleys or other public grounds for the purpose of laying, repairing or removing any pipes,~~

~~underground wires or other conduits, or for any other purpose not specifically mentioned herein, unless such pPerson has first obtained a permit from the eCity eEngineer.~~

~~(Ord. No. 45-682 § 1; Ord. 33-103 § 1; Ord. No. 33-011 § 2; Ord. No. 19-440 § 1)~~

#### **Section 10.20.040.**

**“Persons eligible for permits.”** The following pPersons shall be eligible to secure permits to cut sidewalks or pavements, and to make Eexcavations in the ~~streets, alleys and other public grounds in the~~ eCity Right of way:

(1) ~~PUBLIC UTILITY CORPORATIONS.~~ Any municipally operated utility or any ~~public utility corporation having a franchise or agreement to operate in any street, alley or other grounds of the eCity;~~

(2) ~~PLUMBERS AND DRAIN LAYERS.~~ ~~Licensed pPlumbers and/or master drain layers with the current applicable license and surety bond in the sum of five thousand (5,000) dollars on file with the City Engineerbonded by the city;~~

(3) ~~OTHER PERSONS; BOND, ETC, REQUIRED.~~ Any other pPerson; provided, that such ~~other pPerson~~ shall first file and maintain with the eCity ~~Engineer~~clerk, a surety bond in the sum of five ~~(5,000)~~, thousand dollars as hereinafter provided. Such bond shall be ~~conditioned~~require that the principal ~~therein will to~~ comply with all applicable laws, rules, and ordinances~~the provisions of this Code and other ordinances of the city relating to and regulating the cutting of sidewalks or pavement and the making of excavations in any of the streets, alleys or other public grounds in the city.~~ Such bond shall also ~~be conditioned that~~ require the principal will defend and hold and save the eCity harmless from any and all damages, ~~pavement, or the making of any excavations in any of the streets, alleys or other public grounds of the city, or the erection and maintenance of barricades, warning grounds of the city, or the erection and maintenance of barricades, warning signs, etc.,~~ sSuch liability ~~onf~~ the part of the principal and surety ~~to~~shall continue until a release has been received from the eCity as provided in this Chapter.

~~(Ord. No. 45-682 § 2; Ord. No. 34-482 (part); Ord. No. 33-1-3 § 2; Ord. No. 33-011 (part); Ord. No. 19-440 § 2)~~

#### **Section 10.20.050.**

**“Application for permit; fees, issuance.”** Permits required by this Chapter ~~shall~~may be issued to any municipally operated utility or public utility corporations having a franchise or agreement to operate in ~~any street, alley or other public grounds of the eCity, upon such~~

~~municipally operated utility or public utility corporations filing with application and subject to approval by the eCity eEngineer. Such Person will be invoiced by the City with payment due within thirty-six (36) days of the invoice.an application for such permit; provided, that statements based on fees provided for in this section will be rendered upon the first of each month for the amount due the city on all permits issued to such municipally operated utility or public utility corporation prior to the first day of the preceding calendar month, which statements shall be due and payable within ten days after receipt of statement.~~

Any other eligible pPerson, other than those expressly excepted in Section 10.20.030, desiring a permit, shall first make application to the eCity eEngineer and shall pay ~~seventy dollars~~ a processing fee per block for each cutting-in a paved surface ~~in street~~ City right-of-way, as listed in Section 10.34.010, plus the any repair costs incurred by the eCity ~~for repairing the cut.~~ The City Engineer, at the City Engineer's sole discretion, may require Excavation by trenchless methods.

~~Surchage Fee.~~ A surcharge fee is assessed when an Eexcavation is made in any paved street or alley on which the permanent surfacingpavement or resurfaced pavement is less than five (5) years old. The surcharge fee is five (5) percent of the ~~total~~ permit fee plus the repair costs for each un-elapsed month, or fraction thereof, of the five (5) -year ~~restricted~~ period.

The permit fee, including any applicable surcharge fee, combined with the costs to the eCity for permanently repairing the pavement cut, constitutes the total permit fee.

~~No excavation shall be permitted within the paved portion of streets except when boring, jacking or the pushing of the conduit is impractical as determined by the city engineer or when an emergency is deemed to exist.~~

A processing fee as listed in Section 10.34.010~~of thirty-five dollars~~ shall be required for a permit to excavate in any unpaved City Right of way street, alley, or other public place. ~~F~~for the purpose of laying, repairing, or removing any main pipes, underground wires or other conduits,; ~~One such~~ permit shall be required for each block or portion of a block ~~of a street, alley or other public grounds~~ if the work is done with continuity. For the purpose of connecting, repairing or removing service pipes, underground pipes, underground wires or other conduits, or for any other purpose not specifically mentioned herein, one ~~such~~ permit shall be required for each connection unless such connection is made at the time of laying the main.

Permits are nonrefundable and nontransferable.

*(Ord. No. 45-682 § 3; Ord. No. 41-114 § 1)*

**Section 10.20.055.**

**“Refusal of permits and/or penalty for failure to obey rules and regulations.”** The City Engineer shall refuse permits to contractors who fail or refuse to obey all rules and regulations necessary in the enforcement of this Chapter. Any party, with or without a permit, shall be liable for all costs associated with the repair of the Excavation, including exploratory Excavation, when performed.

A penalty of double the cost of the permit will be charged for failure to obtain a permit prior to the beginning of work that will be performed on City Right-of-Way.

Any permits not paid within thirty-six (36) days after the date of invoice shall be subject to a penalty equal to the amount of the original permit fee. All such amounts not paid within sixty (60) days shall be subject to a penalty equal to four times the original permit fee. All such amounts not paid within ninety (90) days will be turned over to the Permittee’s bonding company for the amount due plus four times the original permit fee.

Any costs for a repair of an Excavation not paid within thirty-six (36) days after the date of invoice shall be subject to a penalty of ten (10) percent. Any repair costs not paid within sixty (60) days shall be subject to another ten (10) percent penalty. Any amounts owed by the Permittee may be offset against any amounts due or payable from the City, including withholding funds of any awarded project to reimburse the City for any outstanding debts. All such amounts not paid within ninety (90) days will be turned over to the Permittee’s bonding company for the amount due.

**Section 10.20.060.**

**“~~Barriades, safety guards and lights~~Manual on Uniform Traffic Control Devices; compliance required.”** Any pPerson making Eexcavations or performing any other work in-any of the streets, alleys or other public Right of waygrounds in the city, shall, at all times after such work is commenced, up to and including the time when the work is completed and the cut is accepted by the city for repair as provided for in this chapter, maintain, for the protection of the traveling public, traffic control as provided in comply with the latest edition of the "Manual on Uniform Traffic Control Devices," as published by the Federal Highway Administration, U.S. Department of Transportation, Federal Highway Administration, which is by reference adopted and incorporated in and by this publication made a part of this title and chapter as fully as though set out at length herein.

*(Ord. No. 45-682 § 4; Ord. No. 33-630 (part))*

### **Section 10.20.070.**

**“Backfilling—Generally; removal of surplus material.”** All Excavations where sidewalk or pavement has been cut, shall either be backfilled with clean sand, which shall be flushed and vibrated into place, or shall be backfilled with excavated material dampened and thoroughly ~~tamped~~compacted in six (6) -inch layers until its ~~compaction~~density is equal to at least one hundred (100) percent of ~~that~~the density of the adjacent undisturbed soil. For vehicular pavements,~~The sand shall be free of rock, dirt or trash and the E~~xcavation shall be compacted ~~filled with sand to within eight (8) inches of the surface; for pedestrian~~ of the remainder of the sidewalk pavements, the Excavation shall be compacted to the bottom of the sidewalk.~~The remainder of the backfill shall be made of the excavated material securely tamped and left within two inches of the surface in sidewalk cuts or pavement cuts.~~ Use of appropriate backfill material, including (i.e., flowable fill) may be ~~determined to be required by the e~~City eEngineer.

~~A two-inch t~~Temporary asphalt concrete surface patches shall have a thickness equal to the full depth of the adjacent pavement and shall be applied, tamped and leftcompacted flush with the adjacent surfaces. Within twenty-four (24) hours, Aall surplus excavated material shall be removed from the location ~~by the person making the excavation.~~

*(Ord. No. 45-682 § 5; Ord. No. 33-011 § 6; Ord. No. 19-440 § 4 (part))*

### **Section 10.20.080.**

**“~~Same—Construction or repair of building foundations adjacent to streets, etc.~~”** All excavations for the construction or repair of building foundations, where adjacent to any street or alley lines, shall, ~~as soon as practical, be thoroughly cleaned of all building debris or debris of any kind, inspected by the division of central, then backfilled with sand, free from rock, dirt or trash and flushed and vibrated into place. The building contractor, or the owner where there is no contractor, shall notify the division of central inspection at least twenty four hours in advance of the time he/she expects to have any such excavation ready for inspection and backfill, Friday excluded and excluding Saturday and Sunday or any legal holiday or double holiday. If the building contractor, or the owner where there is no contractor fails to restore the excavation as described in this chapter, the division of central inspection may recover in a civil action in any court of competent jurisdiction, the actual cost of the restoration. The division of central inspection will notify the city engineer of any adjacent excavations in street right of way.~~

*(Ord. No. 45-682 § 6; Ord. No. 33-011 § 7; Ord. No. 19-440 § 4 (part))*

### **Section 10.20.090.**

~~“Same—Excavations within four (4) feet of existing or planned pavement, etc.”~~ Any ~~Excavation in any street or alley~~ the Right of way that ~~which~~ is less than four (4) feet from any existing or planned pavement, Curb or sidewalk; ~~or where such pavement, curb or sidewalk has been ordered in by action of the eCity eCouncil but not yet constructed, shall be curb or sidewalk has been ordered in by action of the city council but not yet constructed, shall be~~ backfilled with the excavated material, dampened and thoroughly tamped in six inch layers until its compaction is equal and compacted to a density of at least one hundred (100) percent of that of the adjacent undisturbed soil; ~~or it shall be backfilled with sand which shall be flushed and vibrated into place to within six inches of the surface of the remainder of the sidewalk or pavement and the rest of the backfill shall be made of the excavated material securely tamped and left flush with the surface.~~ Use of appropriate backfill material, (i.e., including flowable fill), may be ~~determined to be required by the eCity eEngineer.~~ ~~In sodded areas, the sod shall be carefully removed, then reset as the work is completed.~~

*(Ord. No. 45-682 § 7; Ord. No. 33-011 § 8; Ord. No. 19-440 § 4 (part))*

#### **Section 10.20.100.**

~~“Same—Extra excavation of pavement removal required beyond edges of dirt foundation~~ trenches or Excavations.” The pavement ~~portion~~ repair of all street pavement cuts shall ~~be excavated~~ include additional pavement removal for a minimum distance of one (1) foot beyond the edges of the dirt ~~Excavation,~~ except that when one side of the pavement cut touches a gutter, the gutter pavement shall not be excavated. If such dirt cut is made within four (4) feet of an existing pavement joint or patch, Excavation shall extend to such joint or patch. Excavations should not include gutter pavement unless necessary. If gutter pavement is disturbed by actual Excavation or from compromise of the subgrade/lateral support as determined by the Engineer, such Curb shall be replaced. Such ~~Excavation~~ of pavement shall be done by use of a pavement saw and only after the previous dirt Excavation has been backfilled. The dimensions of a pavement cut, as given on the permit, shall include the extra ~~Excavation~~ of pavement beyond the edges of the dirt ~~Excavation.~~ All material and workmanship shall conform ~~with~~ to specifications on file in the office of the ~~eCity eEngineer,~~ including the requirements of full-depth sawing.

*(Ord. No. 45-682 § 8; Ord. No. 28-940 § 3; Ord. No. 19-440 § 4 (part))*

#### **Section 10.20.110.**

**~~“Same—With excavated material.”~~** All Excavations in any used or traveled portion of any unimproved street or alley, except as provided in the preceding section, may be backfilled with the excavated material; provided, that it shall be ~~compacted~~consolidated by mechanical ~~tamper~~compactor in six ~~(6)~~-inch layers to a density no less than one hundred (100) percent of the surrounding undisturbed soil. ~~and all s~~urplus material shall be trimmed and removed ~~from the line of the ditched.~~

*(Ord. No. 28-940 § 4; Ord. No. 19-440 § 4)*

#### **Section 10.20.120.**

**~~“Same—Duty of p~~Person making Excavation.”** It shall be the duty of any ~~p~~Person making an Excavation ~~in any of the unimproved streets, alleys or other public grounds in the city to backfill and maintain all trenches or ditches~~Excavations in a safe condition ~~for the traveling public until the excavated material has reached final settlement.~~ All Excavations shall be marked by the Person performing the Excavation with a clearly identifiable contact name and telephone number. The Person shall confirm the contact name and telephone number are still present at the Excavation every five (5) days. Each failure to comply with this section is a misdemeanor, which may be issued directly to any agent of the Person performing or having the Excavation performed.

*(Ord. No. 19-440 § 4 (part))*

#### **Section 10.20.130.**

**~~“Work to continue without interruption where E~~xcavation made on expressways, freeways, arterial streets.”** Any ~~public utility, company, contractor, public agency, plumber or other p~~Person having a project which ~~necessitates~~requires making an Excavation in a paved street, ~~which is classified and approved by ordinance or resolution or the e~~City's transportation plan as an expressway, freeway, or arterial street, shall work continuously and diligently, without interruption and without regard for regular hours of work on the project, until the completion of the same, unless ~~other arrangements~~such interruption is ~~are~~ approved by the ~~t~~Traffic engineer before commencement of the project.

*(Ord. No. 33-011 § 9; Ord. No. 19-440 § 4 (part))*

#### **Section 10.20.140.**

**~~“Liability of P~~ermittee for negligent acts, etc.; eCity to be saved harmless.”** Any ~~p~~Person making Excavations ~~in any of the streets, alleys or other public~~ Right of way grounds in ~~the city~~ shall at all times be liable to the eCity for damages ~~arising by reason of any neglect or~~

~~carelessness in any respect concerning the Eexcavation prior to the time the cut is released to and accepted by the city for replacement and permanently repaired and area restored, as provided for in this Chapter; and Such Person shall defend and hold the eCity harmless from all suits, claims or judgments for damages growing out of any negligent act of commission or omission on the part of any pPerson in making street cuts, excavations, erection of barricades, lights or other performing work under this Chapter.~~

~~(Ord. No. 19 440 § 4 (part))~~

#### **Section 10.20.150.**

~~“Traffic ControlReplacement of cuts—Notice to the city; liability after notice.” Any pPerson, when desiring to release to the city for replacement any cut, sidewalk, curb, gutter or pavement, shall first notify the city engineer, in writing, of such intent, and shall be responsible for any and all damages caused by the cut and performing work in the Right of way shall be responsible for the maintenance of traffic control as provided for in comply with the latest edition of the “Manual on Uniform Traffic Control Devices” until the eCity's contractor makes the completes permanent repairs.~~

~~If, during the period above it is found that the backfill has not been made properly, then the person making the excavation shall, upon notice from the city engineer, correct the defect at once, notify the city engineer in writing of such correction, and after notification, shall be responsible for any and all damages caused by the cut and shall be responsible for the maintenance of traffic control as provided for in the latest edition of the "Manual on Uniform Traffic Control Devices."~~

~~(Ord. No. 45 682 § 9; Ord. No. 33 011 § 10; Ord. No. 28 940 § 5; Ord. No. 19 440 § 5 (part))~~

#### **Section 10.20.170.**

~~“Contracting with paving contractor to do work.” Any pPerson-public utility, company, contractor, public agency, plumber or other having a project necessitating an Eexcavation on any portion of paved Citystreet right-of-way shall first obtain a pavement cut permit in the amount of seventy dollars from the eCity eEngineer. Permanent repair of the cut shall be done by the eCity's contractor under the inspection of the eCity eEngineer, and all material and workmanship will conform withto the specifications on file in the office of the eCity eEngineer. The pPerson making the cuts shall be liable for the cost of repair of such cuts and for maintenance of traffic control as provided in the latest edition of the “Manual on Uniform Traffic~~



Control Devices.” The Person will also comply with all applicable provisions of the Americans with Disabilities Act.

The ~~p~~Person making the cut shall also be liable for a period of ten (10) years for the maintenance of the repair, including its complete removal and replacement if the condition of the repair is such, in the opinion of City Engineer, as to constitute a threat to the integrity or usability of the ~~street~~paved surface.

~~When, in the opinion of t~~The ~~e~~City ~~e~~Engineer may require~~repair cannot be provided by the city's contractor~~, the ~~p~~Person making the cuts ~~may, with the approval of the city engineer, to~~ contract with a paving contractor for repair of such cuts. The repair will be under the inspection of the ~~e~~City ~~e~~Engineer, and all material and workmanship will conform ~~with~~to the specifications on file in the office of the ~~e~~City ~~e~~Engineer. The ~~p~~Person making the cuts shall be liable for cost of repair of such cuts, the costs of inspection, and responsible for maintenance~~of traffic control~~ as provided in the latest edition of the “Manual on Uniform Traffic Control Devices.” In no case shall any Person at any time or under any circumstance be allowed to perform any permanent repairs of any type or nature with regard to the repair of an Excavation without the written approval of the City Engineer, which shall be at the City Engineer’s sole discretion.~~The expense of the inspection by the city engineer shall be borne by the person making the cuts. The permit fee under such circumstances shall be one hundred dollars.~~

~~(Ord. No. 45-682 § 11; Ord. No. 33-631 (part))~~

#### **Section 10.20.180.**

“Warranty of Restoration and Repairs.” Any Person performing any dirt cut or pavement cut shall be solely responsible for the performance of the backfill for a period of five (5) or ten (10) years, respectively, including all related costs.~~“Disposition of moneys collected under chapter.”~~ ~~The money collected as permit fees under the provisions of this chapter shall be at once transmitted to the city treasurer, and the permit shall serve as a receipt. All sums collected under the provisions of this chapter shall be credited to the fund providing for maintenance or services expenditures and all expenses of the city in replacing sidewalk or pavement cuts under the provisions of this chapter shall be charged to the funds providing for the expenditure.~~

~~(Ord. No. 33-103 § 4; Ord. No. 33-011 § 13; Ord. No. 19-440 § 8)~~

#### **Section 10.20.190.**

**“Right of eCity to civil action to recover permit fees.”** In addition to the penalty prescribed in Section 1.04.060, the eCity may recover in a civil action in any court of competent jurisdiction, the amount of the permit fees, late fees, and charges for any damages, plus reasonable attorney’s fees~~imposed~~. No property of such debtor shall be exempt from forced sale under any process of law such indebtedness, except such exemptions as allowed by the Constitution and the laws of this state.

~~(Ord. No. 33-103 § 5)~~

CLEAN

(First Published in *The Wichita Eagle*, on April 29, 2016)

ORDINANCE NO. 50-183

AN ORDINANCE AMENDING SECTION 10.30.010 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO PURCHASE AND SALE OF REAL ESTATE ACQUIRED IN CONNECTIONS WITH PUBLIC PURPOSES.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 10.30.010 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

(a) If the City Council finds that it is in the public interest, the City may acquire real property for any immediate or future public purpose. Such purchase may, at the City's discretion, include parcels or remnants of parcels when such purchase is beneficial to the City. The City may issue general obligation bonds to finance the cost of such purchase under applicable home rule or statutory authority.

(b) Any conveyance of real property shall be subject to City policies and procedures. Whenever the City has acquired real property, the City may sell such property or any portion of such property. If acquisition of the property was made through tax-exempt financing, the sale of such property may impact the tax-exempt status of the outstanding debt obligations and should be considered prior to sale. Upon sale of said property, the City Council shall authorize the Mayor to execute a deed conveying said property.

SECTION 2. The original of Section 10.30.010 of the Code of the City of Wichita, Kansas, is hereby repealed.

SECTION 3. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official City paper.

PASSED by the governing body of the City of Wichita, Kansas this 26th day of April, 2016.

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Jeff Longwell, Mayor

ATTEST:

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Karen Sublett, City Clerk

Approved as to Form:

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Jennifer Magaña  
Director of Law and City Attorney

**CERTIFICATE**

I hereby certify that the foregoing is a true and correct copy of the original ordinance; that said Ordinance was passed on \_\_\_\_\_, 2016; that the record of the final vote on its passage is found on page \_\_\_\_ of journal \_\_\_\_; and that the Ordinance was published in ***The Wichita Eagle*** on \_\_\_\_\_, 2016.

DATED: \_\_\_\_\_

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Karen Sublett, City Clerk

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DELINEATED

## Sec. 10.30.010

### **“Purchase and sale of surplus real estate acquired in connection with public purposes.”**

(a) ~~The city may acquire by purchase or gift, title to an entire lot, block, or tract of land for any public purpose even though said lot, block, or tract of land is not immediately needed for city purposes; If the City Council governing body finds that by doing so it is in the public interest, the City may acquire real property for any immediate or future public purpose. Such purchase may, at the City’s discretion, include parcels or remnants of parcels when such purchase is beneficial to the City. of the public will be served, and without limiting the foregoing, the same may be done where an uneconomic remnant of land would be left the original owner or where severance or consequential damage to the remainder makes acquisition of the entire lot, block, or tract more economical to the city. The eCity may issue general obligation bonds to finance the cost of such purchase under applicable home rule or the statutory authority under which the public project is being constructed and land is being purchased.~~

(b) Any conveyance of real property shall be subject to City policies and procedures. Whenever the city has acquired ~~entire lots, blocks, or tracts of land in fee simple title under the authority set forth herein the city may sell the surplus portion of said lots, blocks, or tracts of land.~~ real property, the City may sell such property or any portion of such property. If acquisition of the property was made through tax-exempt financing, the sale of such property may impact the tax-exempt status of the outstanding debt obligations and should be considered prior to sale. ~~Before transferring and conveying said real estate the city shall negotiate a sale of said real estate following city policy pertaining to the sale of city-owned land.~~ Upon sale of said property, ~~land~~ the City Council governing body shall authorize the mMayor to execute, ~~on behalf of the city, a quit claim deed conveying said property land to the purchaser or purchasers thereof.~~

(c) ~~For purposes of tills section, surplus land shall be defined to be that portion of lots, blocks, or tracts of land acquired under authority of this section that lies outside the boundaries of right of way needed for the public project for which the land was acquired.~~

*(Ord. No. 38-412 § 1)*

CLEAN

(First Published in *The Wichita Eagle* on April 29, 2016)

ORDINANCE NO. 50-184

AN ORDINANCE REPEALING SECTION 10.32.150 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO THE RULES AND REGULATIONS GOVERNING LANDSCAPING AND PARKING LOT SCREENING.

AN ORDINANCE ADMENDING SECTIONS 10.32.010, 10.32.030, 10.32.040, 10.32.070, 10.32.080, 10.32.090, 10.32.100, 10.32.110, 10.32.120, 10.32.130, 10.32.140 AND 10.32.160 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO THE RULES AND REGULATIONS GOVERNING LANDSCAPING AND PARKING LOT SCREENING AND REPEALING THE ORIGINALS THEREOF.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 10.32.010 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Purpose.”** The purpose of this Chapter is to enhance the attractiveness of the community through the establishment of landscape requirements for urban development projects. The standards herein established shall apply to all new development and certain levels of redevelopment, renovation and/or additions within the corporate boundaries of the city, except single-family residences and duplexes; provided, however, that only parking lot screening and landscaping, but not landscaped street yard requirements, shall apply to development occurring on property in the Central Business District as described in the Wichita / Sedgwick County Unified Zoning Code.

Properly established and maintained, landscaping can improve the livability of neighborhoods, enhance the appearance of commercial areas, increase property values, improve relationships between incompatible uses, screen undesirable views, soften the effects of structural features, and contribute to a positive overall image of the community.

SECTION 2. Section 10.32.030 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Required landscaped street yard.”**

- A. The minimum amount of landscaped street yard for all uses except single-family and two-family which are adjacent to at-grade expressway or freeway frontage roads, arterial or collector streets designated in the city's transportation plan, or which are adjacent to local streets when across from residential districts, except as provided for in subsections (A)(8) and (A)(9) of this section, shall be as follows:

<b>Average Lot Depth (ft.)</b>	<b>Square Footage Factor (ft<sup>2</sup> / linear foot)</b>
175.00 or less	8
175.01–275.00	10
275.01–375.00	15
Greater than 375.00	20

1. The square footage per linear foot of street frontage may be reduced twenty (20) percent if the minimum planting size of materials specified in subsections (C)(3) and (C)(4) of this section is increased by one hundred (100) percent or more.
2. Plants, installation and maintenance techniques meeting the principles of Xeriscape shall be utilized for landscaping required by these regulations.
3. On a zoning lot with frontage on two or more streets, each of which requires a landscaped street yard, the landscaped area requirement shall be based on the sum of the street frontages, less the greatest perpendicular distance between the property line abutting a street and the street wall line, multiplied by the factor based on average lot depth as referenced above. On multiple-frontage lots where the use of the average lot depth, as defined in Section 10.32.020, would require more landscaped street yard than would be required if each frontage were calculated individually, the lesser of the calculations may be used. Although the required amount of landscaped street yard does not have to be equally distributed to the various street frontages, there shall be no less than twenty (20) percent of the total required landscaping within any street yard.



4. On collector streets with industrial zoning on both sides of the street, the requirement for a landscaped street yard shall be automatically waived.
  5. In the "D" central business district, no landscaped street yard shall be required.
- B. There shall be a minimum of one (1) shade tree or two (2) ornamental trees for every five hundred (500) square feet or fraction thereof of the required minimum landscaped street yard.
- C. Design standards for landscaped street yards and required trees:
1. Trees shall be located in planter areas of sufficient size and design to accommodate the growth of the trees and protected to prevent damage to the trees by vehicles. A minimum of twenty-five (25) square feet of permeable ground surface area per tree is recommended.
  2. The required trees may be clustered along a particular façade or boundary of the project. Trees need not be spaced evenly, although it is permissible to do so, provided adequate distance is maintained between individual specimens. Minimum spacing for ornamental trees is recommended to be fifteen (15) feet and forty (40) or more feet for shade trees. The trees shall be selected from a list of tree types that are commonly known to grow in the Wichita area and are listed in the publication prepared by the Kansas Urban Forestry Council and titled "Preferred Tree Species for South Kansas," available from the Wichita Park and Recreation Department. Trees not listed but which are substantially equivalent may be used if first approved by the Director of Parks.
  3. The minimum size at the time of planting of required trees shall be as follows: shade trees—two (2) inch or greater caliper measured at a height of six (6) inches above the ground; ornamental trees—one (1) inch or greater caliper measured six (6) inches above the ground; conifer trees five (5) feet or more in height.
  4. Shrubbery may be substituted for up to one-third (1/3) of the required trees at the rate of ten (10) shrubs for one (1) required shade tree. Substitute shrubbery shall be of a site-specific type that attains a mature height of at least two (2) feet and shall be no less than two (2) gallon container size at the time of planting.
  5. The required trees (shade trees or ornamental trees but not conifers) and/or shrubs may be located in part or in total in adjacent public Right-of-Way area if approved

as to location by the traffic engineer and approved as to type by the superintendent of landscape and forestry and no conflicts exist with utility locations. Trees and shrubs should be located no closer than six (6) feet to the Curb line of adjacent streets. Trees should also be located no closer than six (6) feet to either side of a sidewalk unless root barrier materials are installed at the sidewalk on the tree side.

6. Shrubbery, walls and fences which are twenty-five (25) percent or more opaque in design shall be constructed no higher than three (3) feet above the finished grade in a required landscaped street yard when located within a right triangle, the sides of which are formed by a line extending twenty-five (25) feet toward the shrubbery, wall or fence from any vehicular access point along the street Right-of-Way line and a line extending six (6) feet away from and perpendicular to the street Right-of-Way line from the same access point. Shrubbery, walls, fences, or other obstructions located near the intersection of streets shall maintain sight visibility clearance as specified in Chapter 11.22 of this Code. All opaque fences shall be located toward the private property side of required landscaped street yards along street Right-of-Way to maintain a landscaped appearance along the street.
7. The intent of the landscaped street yard is to visually soften the masses of building and parking lots and to separate building areas from parking areas through the use of plantings. Paved plazas may be credited to a maximum of fifty (50) percent of required street yard landscaping area if such plazas have trees and/or shrubbery which provide(s) visual relief to those building elevations forming the major public views of the project. Paved walkways and bike paths connecting public sidewalks to buildings located on private property within a landscaped street yard may also be credited to a maximum of fifty (50) percent of the required landscaped street yard.

SECTION 3. Section 10.32.040 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Required buffers.”**

A. Buffers between nonresidential and residential development:

1. Where Required. Such a buffer is required along the common property line of any nonresidential project in any zoning district where such project is adjacent to a residential district.

2. Design Standards. There shall be a minimum of one (1) shade tree or two (2) ornamental trees for every forty (40) feet or fraction thereof of lot line abutting the residential district. The trees must be generally evenly spaced and shall be within fifteen (15) feet of the property line common to the residential district. If utility and/or drainage easements occupy this fifteen (15) foot perimeter area, the trees may be located outside the easements. Each tree shall be in a planting area having a minimum permeable ground surface of twenty-five (25) square feet. The minimum size at the time of planting of required trees shall be as follows: shade trees—two (2) inch or greater caliper measured at a height of six (6) inches above the ground; ornamental trees—one (1) inch or greater caliper measured at a height of six (6) inches above the ground; conifer trees—five (5) feet or more in height. These trees shall be in addition to any screening required by Wichita / Sedgwick County Uniform Zoning Code.
- B. Buffers between adjacent multi-family residential or manufactured home parks and single-family/two-family residential projects:
1. Where Required. Such a buffer is required along the side and/or rear lot line of any multi-family project (a project with three or more dwelling units in one building) or manufactured home park in any zoning district where such a project is adjacent to a single-family or two-family zoning district.
  2. Design Standards. The required buffer shall be a minimum of fifteen (15) feet in width. There shall be a minimum of one (1) shade tree or two (2) ornamental trees and five (5) shrubs for every thirty (30) feet of the length of the buffer; alternatively, a minimum of one (1) shade tree or two (2) ornamental trees for every twenty (20) feet of length of the buffer may be used. A minimum of one-third (1/3) of the trees and shrubs shall be evergreen. The minimum size at the time of planting of required trees shall be as follows: shade trees—two (2) inch or greater caliper measured at a height of six (6) inches above the ground; ornamental trees—one (1) inch or greater caliper measured at a height of six (6) inches above the ground; conifer trees—five (5) feet or more in height. The minimum size of shrubs shall be two (2) gallon containers. The width of the required buffer may be reduced to twelve (12) feet if the minimum planting size of materials is increased by one

hundred (100%) percent or more. Parking shall be screened from adjacent residential areas in accordance with the parking lot screening requirements listed below. Required screening may be located within the buffer area. Parking may not be located within the buffer area.

SECTION 4. Section 10.32.070 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Other landscape regulations.”**

- A. Landscaping shall not conflict with the traffic visibility requirements in Chapter 11.22 of this Code.
- B. The use of artificial trees, shrubs, vines, turf, or other plants as an outside landscape material is not allowed.
- C. The planting of *Ulmus pumila* (Siberian elm) in required landscape areas is not allowed.
- D. The planting of female or cotton-bearing cottonwood trees is not allowed in any required landscaped area.
- E. Clumped or multi-trunked trees, where used, instead of single-trunk trees, shall be credited as only one of the required trees.
- F. Landscaping shall not interfere with the general function, safety or accessibility of any gas, electric, water, sewer, telephone, or other utility easement. Landscaping shall be limited to an eight (8) inch mature height within three (3) feet of a fire hydrant, traffic sign, traffic signal or utility Structure.
- G. The existing indigenous vegetation on a site is encouraged to be retained in a development project and may be credited toward required landscaping in this Chapter, provided this vegetation is adequately protected during construction to insure long-term survival.
- H. Where a calculation of a requirement results in a fractional number (such as 14.2 required trees), the requirement shall be considered the next greatest whole number (such as fifteen required trees).
- I. Landscaping in the Right-of-Way of a state highway shall be approved by the district engineer, where applicable.

- J. Prior to Excavation for screening or landscape purposes within public Right-of-Way or easements, the location of all underground utilities shall be determined by calling the Kansas One-Call System at 687-2470.
- K. Berms, irrigation systems, street furniture, entry monuments, fountains, statuary or similar landscape features may be located within public street rights-of-way, provided adequate Right-of-Way exists and a Right-of-Way use permit is granted through the office of the City Engineer.
- L. Walls on permanent foundations and fences over six (6) feet in height require a building permit. Walls shall not be constructed within utility easements or street rights-of-way; provided, however, that wall segments on column footings may be permitted across easements if determined appropriate by the City Engineer.
- M. Landscape plans shall be submitted showing the location of all landscape materials and shall be drawn to scale with the scale and north arrow indicated, as well as names of all adjacent streets, the lot dimensions, the location of all utility and drainage easements, and the legal description of the zoning lot. The plans shall contain a listing of the proposed plant materials indicating their numbers, names (both botanical and common) and sizes at the time of planting. The plans shall also state how water is to be provided to plant materials. Copies of the plans shall be submitted to the Metropolitan Area Planning Department in the quantity required by current policy. Statements setting out requirements I, J, K and L above should be included on the landscape plan if they apply to the project. The number of parking spaces within parking lots shall be shown. Calculations of the amount of required landscaped street yard and number of parking lot trees, as well as the amount and number actually provided, shall be included as part of the landscape plan.
- N. No more than seventy-five (75) percent of the required landscape areas shall be covered by turf grasses unless the grass is buffalo grass.
- O. Plants shall be high quality nursery-grown stock which meets the American Association of Nurserymen standards as specified by the American National Standards Institute in ANSI Z60.1-1986 et seq.

SECTION 5. Section 10.32.080 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Maintenance.”** All submitted plans shall include both short- and long-term maintenance plans.

SECTION 6. Section 10.32.090 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Exceptions and modifications.”** The provisions of this Chapter may be modified and/or trade-offs permitted with respect to dimension or location within a property boundary. Permitted forms of modification and exception are identified as follows:

- A. For purposes of application of this Chapter, no buffer or screening requirement located on an adjacent property may be utilized as a portion of a required buffer or screen, nor allowed to be used in a trade-off or modification of a standard.
- B. The change in use or redevelopment of a site utilizing all or parts of an existing building(s) shall not be required to meet the landscaping requirements of this Chapter, except as follows:
  - 1. When the value of the new addition, renovation or redevelopment exceeds fifty (50) percent of the value of the existing development, as determined by the county appraiser's office; or
  - 2. When there is more than a thirty (30) percent increase of the gross floor area on the site.

New parking lots and additions to parking lots which are required to provide landscaping and/or screening in accordance with Section 10.32.050 shall do so even if there is no increase in gross floor area or value.

- C. Lots or tracts of land abutting the rights of way of a railroad zoned for residential use and held by title separate from all abutting lands shall not be required to provide landscaped buffers along the common property line.
- D. In those instances where a development site abuts a public park or other permanent public open space and where at least one hundred (100) feet of undisturbed natural foliage exists along the common lot line, a landscaped buffer requirement along the common property line is not required; provided, however, loading docks, trash containers, and storage areas on the development site along the common line shall be screened as provided within Section 28.04.160 (K) of this Code.

- E. For purposes of this section, the Director of MABCD with concurrence of the Director of Planning or their designated representatives, shall have the authority to interpret the language and, in extraordinary circumstances, modify the provisions of this section in such a manner and extent that is appropriate for the public interest and consistent with the purposes and intent of this section.
- F. No property owner obtaining a permit for a project involving a new building or building addition shall be required to expend more than four (4) percent of the total construction cost for materials and installation costs associated with landscaping and parking lot screening required by this ordinance. No property owner obtaining a permit for a project involving only a new or expanded parking lot, with no building construction, shall be required to expend more than eight (8) percent of the total construction cost for materials and installation costs associated with parking lot landscaping and screening required by the ordinance codified in this section. In order to qualify for this exception, the property owner must submit a bona fide bid from a licensed contractor for the total project construction cost, and a bona fide bid from a licensed contractor or nurseryman for materials and installation costs for an approved landscape plan. The bid for landscaping must distinguish those items which are required by the ordinance from any other items which are not required. If the total cost of required landscaping items exceeds the applicable percentage as specified above, then the property owner may select items at his discretion to delete from the approved plan, and submit the list of items to be deleted as an addendum to the approved plan.
- G. The preservation and protection from construction damage of each existing tree of six (6) or more inches in trunk diameter (measured six (6) inches above the ground) within the street yard, parking lot, or perimeter buffer area of a site shall account for the equivalent two (2) trees required in that landscaped street yard, parking lot, or perimeter buffer area of the site.

SECTION 7. Section 10.32.100 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Water conservation measures; rain shut-off devices required.”** Property owners are encouraged to take advantage of the water-saving practices set out in the principles of xeriscape. All automatic irrigation systems shall be equipped with functioning moisture-sensing devices or

automatic rain shut-off devices that forestall scheduled watering cycles when moisture adequate to sustain healthy plant life is present or must not irrigate when determined to be inappropriate by the Director of Parks.

SECTION 8. Section 10.32.110 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Enforcement/assurances for installation and completion.”** A certificate of occupancy shall not be issued until the MABCD has inspected the site and confirmed conformance with the landscaping plan, except a certificate of occupancy may be issued if the landowner guarantees the completion of all landscaping work. At the time of inspection, the landowner shall possess a copy of the approved landscaping plan for use by the MABCD.

Such guarantee shall include an irrevocable letter of credit, certified check, bond, or other acceptable assurance, equal to one hundred twenty-five (125) percent of the cost of the landscaping work, including labor. Such guarantee shall be accompanied by a written assurance that such landscaping will be completed to the satisfaction of the MABCD.

SECTION 9. Section 10.32.120 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Administrative remedies.”** Until the landowner completes all requirements as set forth in this section, the MABCD may stay any existing building permits, withhold any future building permits, may refuse any inspections to the landowner, and may issue cease and desist orders for any other development on properties owner in any manner by the landowner.

SECTION 10. Section 10.32.130 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Penalties.”** Any Person or entity who violates any of the provisions of this Chapter and who fails to correct such a violation upon which a citation has been served is guilty of a misdemeanor and, upon conviction, shall be punished by a fine not to exceed Two thousand five hundred dollars (\$2,500) or by imprisonment of not more than three (3) days, or by both such fine and imprisonment. Each day any violation hereof is found to exist or continues to exist shall be a separate offense and shall be punishable as such hereunder.



SECTION 11. Section 10.32.140 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Appeals.”** Any Person aggrieved by the administration or interpretation of any of the terms or provisions of this Chapter may appeal to the Board of Zoning Appeals which, after hearing and with notice to the applicant and adjoining property owners as provided by Sections 2.12.590 through 2.12.610 of this Code, may reverse, affirm or modify, in whole or in part, the order, requirement, decision or determination as ought to be made, and to that end shall have the powers of the department or official from whom the appeal is taken.

SECTION 12. Section 10.32.150 of the Code of the City of Wichita, Kansas, is hereby repealed.

SECTION 13. Section 10.32.160 of the Code of the City of Wichita, Kansas, is hereby repealed and Section 10.32.150 is created to read as follows:

**“Severability.”** If any section or provision of this Chapter is for any reason held illegal, invalid, or unconstitutional, such action shall not affect the remaining provisions of this ordinance, which shall remain valid to the greatest extent possible.

SECTION 14. The original of Sections 10.32.010, 10.32.030, 10.32.040, 10.32.070, 10.32.080, 10.32.090, 10.32.100, 10.32.110, 10.32.120, 10.32.130, 10.32.140, 10.32.150 and 10.32.160 of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 15. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official City paper.

PASSED by the governing body of the City of Wichita, Kansas this 26th day of April, 2016.

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Jeff Longwell, Mayor

ATTEST:

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Karen Sublett, City Clerk

Approved as to Form:

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Jennifer Magaña  
Interim Director of Law and City Attorney

**CERTIFICATE**

I hereby certify that the foregoing is a true and correct copy of the original ordinance; that said Ordinance was passed on \_\_\_\_\_, 2016; that the record of the final vote on its passage is found on page \_\_\_\_ of journal \_\_\_\_; and that the Ordinance was published in ***The Wichita Eagle*** on \_\_\_\_\_, 2016.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Karen Sublett, City Clerk

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DELINEATED

### Section 10.32.010

**“Purpose.”** The purpose of this Chapter is to enhance the attractiveness of the community through the establishment of landscape requirements for urban development projects. The standards herein established shall apply to all new development and certain levels of redevelopment, renovation and/or additions within the corporate boundaries of the city, except single-family residences and duplexes; provided, however, that only parking lot screening and landscaping, but not landscaped street yard requirements, shall apply to development occurring on property zoned the "D" central business district under Title 28.04 of this Code.

Properly established and maintained, landscaping can improve the livability of neighborhoods, enhance the appearance of commercial areas, increase property values, improve relationships between ~~ne~~incompatible uses, screen undesirable views, soften the effects of structural features, and contribute to a positive overall image of the community.

~~(Ord. No. 42-494 § 1)~~

### Section 10.32.030

#### **“Required landscaped street yard.”**

A. The minimum amount of landscaped street yard for all uses except single-family and two-family which are adjacent to at-grade expressway or freeway frontage roads, arterial or collector streets designated in the city's transportation plan, or which are adjacent to local streets when across from areas zoned residential ~~districts~~, except as provided for in subsections (A)(8) and (A)(9) of this section, shall be as follows:

<u>Average Lot Depth</u> <u>(ft.)</u>	<u>Square Footage Factor</u> <u>(ft<sup>2</sup> / linear foot)</u>
<u>175.00 or less</u>	<u>8</u>

<u>175.01-275.00</u>	<u>10</u>
<u>275.01-375.00</u>	<u>15</u>
<u>Greater than 375.00</u>	<u>20</u>

- ~~1. On a zoning lot with an average lot depth of one hundred seventy-five feet or less—eight square feet of landscaped street yard per lineal foot of street frontage.~~
- ~~2. On a zoning lot with an average lot depth of 175.01 feet to two hundred seventy-five feet—ten square feet of landscaped street yard per lineal foot of street frontage.~~
- ~~3. On a zoning lot with an average lot depth of 275.01 to three hundred seventy-five feet—fifteen square feet of landscaped street yard per lineal foot of street frontage.~~
- ~~4. On a zoning lot with an average lot depth of more than three hundred seventy-five feet—twenty square feet of landscaped street yard per lineal foot of street frontage.~~
51. The square footage per lineal foot of street frontage may be reduced twenty (20) percent if the minimum planting size of materials specified in subsections (C)(3) and (C)(4) of this section is increased by one hundred (100) percent or more.
62. Plants, installation and maintenance techniques meeting the principles of Xeriscape shall be utilized for landscaping required by these regulations.
73. On a zoning lot with frontage on two or more streets, each of which requires a landscaped street yard, the landscaped area requirement shall be based on the sum of the street frontages, less the greatest perpendicular distance between the property line abutting a street and the street wall line, multiplied by the factor based on average lot depth as referenced above. On multiple-frontage lots where the use of the average lot depth, as defined in Section 10.32.020, would require more landscaped street yard than would be required if each frontage were calculated individually, the lesser of the calculations may be used. Although the required amount of landscaped street yard does not have to be equally distributed to the various street frontages, there shall be no less than twenty (20) percent of the total required landscaping within any street yard.

84. On collector streets with industrial zoning on both sides of the street, the requirement for a landscaped street yard shall be automatically waived.

95. In the "D" central business district, no landscaped street yard shall be required.

B. ~~Minimum number of trees within street yards:~~

~~1.~~

~~There shall be a~~A minimum of one (1) shade tree or two (2) ornamental trees for every five hundred (500) square feet or fraction thereof of the required minimum landscaped street yard.

C. Design standards for landscaped street yards and required trees:

1. Trees shall be located in planter areas of sufficient size and design to accommodate the growth of the trees and protected to prevent damage to the trees by vehicles. A minimum of twenty-five (25) square feet of permeable ground surface area per tree is recommended.
2. The required trees may be clustered along a particular facade or boundary of the project. Trees need not be spaced evenly, although it is permissible to do so, provided adequate distance is maintained between individual specimens. Minimum spacing for ornamental trees is recommended to be fifteen (15) feet and forty (40) or more feet for shade trees. The trees shall be selected from a list of tree types that are commonly known to grow in the Wichita area and are listed in the publication prepared by the Kansas Urban Forestry Council and titled "Preferred Tree Species for South Central Kansas," available from the Wichita Park and Recreation Department. Trees not listed but which are substantially equivalent may be used if first approved by the Superintendent of Landscape and Forestry for the City of Wichita.
3. The minimum size at the time of planting of required trees shall be as follows: shade trees—two (2) -inch or greater caliper measured at a height of six (6) inches above the ground; ornamental trees—one (1) -inch or greater caliper measured six(6) inches above the ground; conifer trees five (5) feet or more in height.
4. Shrubbery may be substituted for up to one-third (1/3) of the required trees at the rate of ten (10) shrubs for one (1) required shade tree. Substitute shrubbery shall be

of a site-specific type that attains a mature height of at least two (2) feet and shall be no less than two(2) -gallon container size at the time of planting.

5. The required trees (shade trees or ornamental trees but not conifers) and/or shrubs may be located in part or in total in adjacent public Right-of-Way area if approved as to location by the traffic engineer and approved as to type by the superintendent of landscape and forestry and no conflicts exist with utility locations. Trees and shrubs should be located no closer than six (6) feet to the Curb line of adjacent streets. Trees should also be located no closer than six (6) feet to either side of a sidewalk unless root barrier materials are installed at the sidewalk on the tree side.
6. Shrubbery, walls and fences which are twenty-five (25) percent or more opaque in design shall be constructed no higher than three (3) feet above the finished grade in a required landscaped street yard when located within a right triangle, the sides of which are formed by a line extending twenty-five (25) feet toward the shrubbery, wall or fence from any vehicular access point along the street Right-of-Way line and a line extending six (6) feet away from and perpendicular to the street Right-of-Way line from the same access point. Shrubbery, walls or fences located near the intersection of streets shall maintain sight visibility clearance as specified in Chapter 11.22 of the city Code. All opaque fences shall be located toward the private property side of required landscaped street yards along street Right-of-Way to maintain a landscaped appearance along the street.
7. The intent of the landscaped street yard is to visually soften the masses of building and parking lots and to separate building areas from parking areas through the use of plantings. Paved plazas may be credited to a maximum of fifty (50) percent of required street yard landscaping area if such plazas have trees and/or shrubbery which provide(s) visual relief to those building elevations forming the major public views of the project. Paved walkways and bike paths connecting public sidewalks to buildings located on private property within a landscaped street yard may also be credited to a maximum of fifty (50) percent of the required landscaped street yard.

*(Ord. No. 43-658 § 1)*

#### **Section 10.32.040**

##### **“Required buffers.”**

A. Buffers ~~B~~etween ~~N~~onresidential and ~~R~~esidential ~~D~~evelopment:

1. Where Required. Such a buffer is required along the common property line of any nonresidential project in any zoning district where such project is adjacent to a residential district.
2. Design Standards. There shall be a minimum of one (1) shade tree or two (2) ornamental trees for every forty (40) feet or fraction thereof of lot line abutting the residential district. The trees ~~may be irregularly~~ must be generally evenly spaced ~~but~~ and shall be within fifteen (15) feet of the property line common to the residential district. If utility and/or drainage easements occupy this fifteen (15) - foot perimeter area, the trees may be located outside the easements. Each tree shall be in a planting area having a minimum permeable ground surface of twenty-five (25) square feet. The minimum size at the time of planting of required trees shall be as follows: shade trees—two-inch (2) or greater caliper measured at a height of six (6) inches above the ground; ornamental trees—one-inch (1) or greater caliper measured at a height of six (6) inches above the ground; conifer trees—five (5) feet or more in height. These trees shall be in addition to any screening required by Section 28.04.160K of this Code.

B. Buffers ~~B~~etween ~~A~~adjacent ~~M~~ulti-~~F~~amily ~~R~~esidential or ~~M~~anufactured ~~H~~ome ~~P~~arks and ~~S~~ingle-~~F~~amily/~~T~~wo-~~F~~amily ~~R~~esidential ~~P~~rojects:

1. Where Required. Such a buffer is required along the side and/or rear lot line of any multi-family project (a project with three or more dwelling units in one building) or manufactured home park in any zoning district where such a project is adjacent to a single-family or two-family zoning district.
2. Design Standards. The required buffer shall be a minimum of fifteen (15) feet in width. There shall be a minimum of one (1) shade tree or two (2) ornamental trees and five (5) shrubs for every thirty (30) feet of the length of the buffer; alternatively, a minimum of one (1) shade tree or two (2) ornamental trees for every twenty (20) feet of length of the buffer may be used. A minimum of one-third (1/3) of the trees and shrubs shall be evergreen. The minimum size at the time of planting of required trees shall be as follows: shade trees—two (2) -inch or greater caliper measured at a height of six (6) inches above the ground; ornamental trees—



one (1) -inch or greater caliper measured at a height of six (6) inches above the ground; conifer trees—five (5) feet or more in height. The minimum size of shrubs shall be two (2) -gallon containers. The width of the required buffer may be reduced to twelve (12) feet if the minimum planting size of materials is increased by one hundred (100) percent or more. Parking shall be screened from adjacent residential areas in accordance with the parking lot screening requirements listed below. Required screening may be located within the buffer area. Parking may not be located within the buffer area.

*(Ord. No. 43-658 § 2)*

### **Section 10.32.070**

#### **“Other landscape regulations.”**

- A. Landscaping shall not conflict with the traffic visibility requirements in Chapter 11.22 of this Code.
- B. The use of artificial trees, shrubs, vines, turf, or other plants as an outside landscape material ~~willis~~ not be allowed.
- C. The planting of *Ulmus pumila* (Siberian elm) in required landscape areas ~~willis~~ not be allowed.
- D. The planting of female or cotton-bearing cottonwood trees ~~willis~~ not be allowed ~~in any required landscaped area~~.
- E. Clumped or multi-trunked trees, where used, instead of single-trunk trees, shall be credited as only one of the required trees.
- F. Landscaping shall not interfere with the general function, safety or accessibility of any gas, electric, water, sewer, telephone, or other utility easement. Landscaping shall be limited to an eight (8) -inch mature height within three (3) feet of a fire hydrant, traffic sign, traffic signal or utility Structure.
- G. The existing indigenous vegetation on a site is encouraged to be retained in a development project and may be credited toward required landscaping in this Chapter, provided this vegetation is adequately protected during construction to insure long-term survival.

- H. Where a calculation of a requirement results in a fractional number (such as 14.2 required trees), the requirement shall be considered the next greatest whole number (such as fifteen required trees).
- I. Landscaping in the Right-of-Way of a state highway shall be approved by the district engineer, where applicable.
- J. Prior to Excavation for screening or landscape purposes within public Right-of-Way or easements, the location of all underground utilities shall be determined by calling the Kansas One-Call System at 687-2470.
- K. Berms, irrigation systems, street furniture, entry monuments, fountains, statuary or similar landscape features may be located within public street rights-of-way, provided adequate Right-of-Way exists and a minor street privilege is granted through the office of the eCity eEngineer.
- L. Walls on permanent foundations and fences over six (6) feet in height require a building permit. Walls shall not be constructed within utility easements or street rights-of-way; provided, however, that wall segments on column footings may be permitted across easements if determined appropriate by the eCity eEngineer.
- M. Landscape plans shall be submitted showing the location of all landscape materials and shall be drawn to scale with the scale and north arrow indicated, as well as names of all adjacent streets, the lot dimensions, the location of all utility and drainage easements, and the legal description of the zoning lot. The plans shall contain a listing of the proposed plant materials indicating their numbers, names (both botanical and common) and sizes at the time of planting. The plans shall also state how water is to be provided to plant materials. Copies of the plans shall be submitted to the ~~office of central inspection~~ Metropolitan Area Planning Department in the quantity required by current policy. Statements setting out requirements I, J, K and L above should be included on the landscape plan if they apply to the project. The number of parking spaces within parking lots shall be shown. Calculations of the amount of required landscaped street yard and number of parking lot trees, as well as the amount and number actually provided, shall be included as part of the landscape plan.
- N. No more than seventy-five (75) percent of the required landscape areas shall be covered by turf grasses unless the grass is buffalo grass.

- O. Plants shall be high quality nursery-grown stock which meets the American Association of Nurserymen standards as specified by the American National Standards Institute in ANSI Z60.1-1986 ~~or as may be amended in the future~~ ect seq.

~~(Ord. No. 42-494 § 7)~~

### **Section 10.32.080**

**“Maintenance.”** All submitted plans shall include both short- and long-term maintenance plans.

- ~~A. The landowner is responsible for the maintenance of all landscaping materials and shall keep them in a proper, neat and orderly appearance free from refuse and debris at all times.~~
- ~~B. Maintenance shall include mowing, trimming, weeding, cultivation, mulching, tightening and repairing of guys and stakes, resetting plants to proper grades and upright position, restoration of planting saucer, fertilizing, pruning, disease and insect control and other necessary operations.~~
- ~~C. All landscaped areas, except those in the Central Business District, shall be provided with a readily available permanent water supply; provided, however, that landscaped areas utilizing drought tolerant plants may use a temporary aboveground system and shall be required to provide irrigation for the first two growing seasons only. Irrigation shall not be required for established trees and natural areas that remain undisturbed by development activities. Irrigation systems shall be designed and operated in a manner to avoid water on impervious surfaces and public streets. Long, narrow landscaped areas are difficult to irrigate efficiently, therefore landscaped areas less than five feet in any dimension shall not be irrigated with overhead spray sprinklers. Drip irrigation is acceptable.~~
- ~~D. Disturbed soil between trees and shrubs in the planting beds shall be mulched, planted or otherwise treated to prevent wind and water erosion.~~
- ~~E. Plants which die shall be replaced within sixty days or, if weather prohibits replanting within that time, then replanting shall occur within the first thirty days of the next planting season.~~

~~(Ord. No. 42-494 § 8)~~

## Section 10.32.090

**“Exceptions and modifications.”** The provisions of this Chapter may be modified and/or trade-offs permitted with respect to dimension or location within a property boundary. Permitted forms of modification and exception are identified as follows:

- A. For purposes of application of this Chapter, no buffer or screening requirement located on an adjacent property may be utilized as a portion of a required buffer or screen, nor allowed to be used in a trade-off or modification of a standard.
- B. The change in use or redevelopment of a site utilizing all or parts of an existing building(s) shall not be required to meet the landscaping requirements of this Chapter, except as follows:
  - 1. When the value of the new addition, renovation or redevelopment exceeds fifty (50) percent of the value of the existing development, as determined by the county appraiser's office; or
  - 2. When there is more than a thirty (30) percent increase of the gross floor area on the site.

New parking lots and additions to parking lots which are required to provide landscaping and/or screening in accordance with Section 10.32.050 shall do so even if there is no increase in gross floor area or value.

- C. Lots or tracts of land abutting the rights-of-way of a railroad zoned for residential use and held by title separate from all abutting lands shall not be required to provide landscaped buffers along the common property line.
- D. In those instances where a development site abuts a public park or other permanent public open space and where at least one hundred (100) feet of undisturbed natural foliage exists along the common lot line, a landscaped buffer requirement along the common property line is not required; provided, however, loading docks, trash containers, and storage areas on the development site along the common line shall be screened as provided within Section 28.04.160 (K) of this Code.
- E. For purposes of this section, the superintendent of ~~central inspection~~ MABCD, with concurrence of the Director of pPlanning director or ~~at their~~ their designated representatives, shall have the authority to interpret the language and, in extraordinary circumstances,

~~modify the provisions of this section in such a manner and extent that is appropriate for the public interest and consistent with the purposes and intent of this section specifies of application of the several exceptions. Appeals of the decisions of the superintendent of central inspection and the planning director shall be filed with the board of zoning appeals. In the opinion of the superintendent of central inspection and the director of planning, where there exist extraordinary conditions of topography, existing vegetation, land ownership, site boundaries and dimensions, adjacent development characteristics or other circumstances not provided for in this section, the superintendent and director may modify or vary the strict provisions of this section in such a manner and to such an extent as is deemed appropriate to the public interest, provided that the purposes and intent of this chapter are maintained through such modification or variance.~~

- F. No property owner obtaining a permit for a project involving a new building or building addition shall be required to expend more than four (4) percent of the total construction cost for materials and installation costs associated with landscaping and parking lot screening required by this ordinance. No property owner obtaining a permit for a project involving only a new or expanded parking lot, with no building construction, shall be required to expend more than eight (8) percent of the total construction cost for materials and installation costs associated with parking lot landscaping and screening required by the ordinance codified in this section. In order to qualify for this exception, the property owner must submit a bona fide bid from a licensed contractor for the total project construction cost, and a bona fide bid from a licensed contractor or nurseryman for materials and installation costs for an approved landscape plan. The bid for landscaping must distinguish those items which are required by the ordinance from any other items which are not required. If the total cost of required landscaping items exceeds the applicable percentage as specified above, then the property owner may select items at his discretion to delete from the approved plan, and submit the list of items to be deleted as an addendum to the approved plan.
- G. The preservation and protection from construction damage of each existing tree of six (6) or more inches in trunk diameter (measured six inches above the ground) within the street yard, parking lot, or perimeter buffer area of a site shall account for the equivalent

two (2) trees required in that landscaped street yard, parking lot, or perimeter buffer area of the site.

*(Ord. No. 42 937 § 2)*

### **Section 10.32.100**

#### **“Water conservation measures.”**

~~When meeting the landscape requirements outlined in this section, property owners are encouraged to use water in the most efficient way possible. A number of principles for effective water usage are found in the accepted approach to landscaping called xeriscape. The term xeriscape is derived from a Greek word meaning "dry." The desired effect of xeriscape, however, is to provide an attractive and even lush appearing landscape with a minimum amount of water usage. This is accomplished through the application of seven basic principles of xeriscape.~~

~~Information concerning the principles of xeriscape is available from Botanica, the Wichita water and sewer department, the Wichita park and recreation department, the Wichita public works department, the Wichita Sedgwick County planning department and nurseries and garden centers throughout the community. Property owners are encouraged to take advantage of the water-saving practices set out in the principles of xeriscape.~~

~~Regardless of the extent to which the principles of xeriscape are applied, All automatic irrigation systems shall be equipped~~installed in association with the landscaping requirements of this section shall be equipped with functioning moisture-sensing devices or automatic rain shut-off devices that forestall scheduled watering cycles when moisture adequate to sustain healthy plant life is present.

*(Ord. No. 42 494 § 10)*

### **Section 10.32.110**

**“Enforcement/assurances for installation and completion.”** ~~Prior to the issuance of a~~A certificate of occupancy shall not be issued until the MABCD has inspected the site and confirmed conformance with the landscaping plan. for any structure where landscaping is required, except when a certificate of occupancy may be issued if the landowner guarantees the completion of all landscaping work.~~is obtained by providing acceptable assurance to the city~~

~~guaranteeing the completion of such landscaping, all work as indicated on a landscaping plan shall be inspected and approved by the office of central inspection. At the time of inspection, the landowner shall possess a copy of the approved landscaping plan for use by the office of central inspection~~ MABCD.

~~Such guarantee shall include~~ At the time of inspection, the office of central inspection shall check the quantities and locations of landscape materials. At the time of such inspection, the landowner shall warrant that the completed landscaping complies with the requirements of this section. Such warranty shall include the quantities, locations, species and sizes of plants and other landscape materials used for compliance. In the event that an inspection is not conducted by the office of central inspection prior to the issuance of a certificate of occupancy because acceptable assurance has been provided to the city guaranteeing the completion of such landscaping, such inspection shall be done by the office of central inspection subsequent to the installation of such landscaping but prior to the release or expiration of the acceptable assurance.

~~A landowner may obtain a final certificate of occupancy for a structure prior to the completion of required landscaping work if the completion is not possible, due to seasonal or weather conditions, and if the landowner submits the necessary assurances to the office of central inspection for the completion of the landscaping. The acceptable assurance guaranteeing the completion of the landscaping, such as an irrevocable letter of credit, certified check, bond, or other acceptable assurance, shall be equal to one hundred twenty-five (125) percent of the cost of the landscaping work, including labor. and Such guarantee shall be accompanied by a written assurance that such landscaping will be completed to the satisfaction of the office of central inspection~~ MABCD.

~~(Ord. No. 42-494 § 11)~~

### **Section 10.32.120**

**“Administrative remedies.”** Until the landowner completes all requirements as set forth in this section, the MABCD may stay any existing building permits, withhold any future building permits, may refuse any inspections to the landowner, and may issue cease and desist orders for any other development on properties owned in any manner by the landowner. provisions of this chapter, including the conditions of any permits issued thereunder, have been fully met, the city

~~may withhold issuance of any building permit, certificate of occupancy or inspection required under the current city building code or zoning code or the city may issue cease and desist orders for further development.~~

~~(Ord. No. 41-510 § 14)~~

### **Section 10.32.130**

**“Penalties.”** Any Person ~~or entity, individual, partnership, corporation or association~~ who violates any of the provisions of this Chapter and who fails to correct such a violation upon which a citation has been served is guilty of a misdemeanor and, upon conviction, shall be punished by a fine not to exceed ~~five hundred~~ Two thousand five hundred (2,500) dollars or by imprisonment of not more than ~~six months~~ three (3) days, or by both such fine and imprisonment. Each day any violation hereof is found to exist or continues to exist shall be a separate offense and shall be punishable as such hereunder.

~~(Ord. No. 41-510 § 15)~~

### **Section 10.32.140**

**“Appeals.”** Any Person aggrieved by the administration or interpretation of any of the terms or provisions of this Chapter may appeal to the ~~b~~Board of ~~z~~Zoning ~~a~~Appeals ~~of the city~~ which, after hearing and with notice to the applicant and adjoining property owners as provided by Sections 2.12.590 through 2.12.610 of this Code, may reverse, affirm or modify, in whole or in part, the order, requirement, decision or determination as ought to be made, and to that end shall have the powers of the department or official from whom the appeal is taken.

~~(Ord. No. 41-510 § 16)~~

### **Section 10.32.150. -- Amendments.**

~~Any amendments to Sections 10.32.010 through 10.32.140, inclusive, of this Code shall be forwarded to the Wichita Sedgwick County metropolitan area planning commission for their review and comment.~~

~~(Ord. No. 41-510 § 17)~~

### **Section 10.32.160**



**“Severability.”** If any section or provision of this Chapter is for any reason held illegal, invalid, or unconstitutional, such action shall not affect the remaining provisions of this ordinance, which shall remain valid to the greatest extent possible.

~~(Ord. No. 41-510 § 18)~~

CLEAN

(First Published in *The Wichita Eagle*, on April 29, 2016)

ORDINANCE NO. 50-185

AN ORDINANCE AMENDING SECTION 11.68.150 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO THE FEE FOR THE HOODING OF ANY PARKING METER IN THE CITY AND REPEALING THE ORIGINAL OF SAID SECTION.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 11.68.150 of the Code of the City of Wichita, Kansas is amended to read as follows:

**“Same – Required fees; exceptions; deposit of funds; no refund.”** The fee for the hooding of any parking meter for each authorized day (or fraction thereof) shall be as listed in Section 10.34.010, for the entire parking space controlled by each such meter provided, however, each application will pay the required fee per meter when any portion of the parking space controlled by it is used by applicant or reserved under a permit granted as provided for herein. Under no circumstances will the permit fee or any portion thereof be refunded to any applicant. Permit fees shall not be required of those Persons receiving permits under subsection 3 of Section 11.68.120 of this Code.

SECTION 2. The original of Section 11.68.150 of the Code of the City of Wichita, Kansas is hereby repealed.

SECTION 3. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official City paper.

PASSED by the governing body of the City of Wichita, Kansas this 26 day of April, 2016.

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Jeff Longwell, Mayor

ATTEST:

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Karen Sublett, City Clerk

Approved as to Form:

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Jennifer Magaña  
Director of Law and City Attorney

## CERTIFICATE

I hereby certify that the foregoing is a true and correct copy of the original ordinance; that said Ordinance was passed on \_\_\_\_\_, 2016; that the record of the final vote on its passage is found on page \_\_\_\_ of journal \_\_\_\_; and that the Ordinance was published in *The Wichita Eagle* on \_\_\_\_\_, 2016.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Karen Sublett, City Clerk

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## DELINEATED

### **Section 11.68.150**

**“Same – Required fees; exceptions; deposit of funds; no refund.”** The fee for the hooding of any parking meter for each authorized day (or fraction thereof) shall be as listed in Section 10.34.010~~the sum of four dollars per meter~~, for the entire parking space controlled by each such meter provided, however, each application will pay the required ~~four-dollar~~ fee per meter when any portion of the parking space controlled by it is used by applicant or reserved under a permit granted as provided for herein. Under no circumstances will the permit fee or any portion thereof be refunded to any applicant. Permit fees shall not be required of ~~a person having a franchise with the City, municipal corporations, federal and state agencies, and those~~ Ppersons receiving permits under subsection 3 of Section 11.68.120 (exceptional cases). ~~All fees received hereunder shall be deposited with the City Treasurer to the credit of the general operating fund of the city.~~

CLEAN

(First published in *The Wichita Eagle*, on April 29, 2016)

ORDINANCE NO. 50-186

AN ORDINANCE AMENDING SECTION 17.12.040 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO WATER SERVICE.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 17.12.040 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**“Requirements of applicants for new service.”** If an application is for water service to premises not previously served, the following requirements shall be met:

- (a) **Meter Settings and Service Lines in Areas Served by Existing Water Mains.** In areas where water mains exist adjacent to property to be served, the applicant, upon submission of information to the Water Department (the Department) as to the location and nature of the premises, will be provided with information as to the proposed location of the meter setting. If the customer's service line has been installed prior to the application for service, it shall be the applicant's responsibility to clearly mark the location thereof. The Department shall have sole jurisdiction, however, to determine the location of the Department service line, and the feasibility of a connection to the customer's service line. It shall be the applicant's responsibility at applicant's expense to run applicant's service line from the premises being served to the meter setting at or near the curb line. The Department service line meter setting and meter shall be placed within public Right-of-Way or such other locations as determined by the Director of Public Works & Utilities, and will be installed and maintained by the Department and kept within its exclusive control.
- (b) **Areas Not Served by Existing Water Mains.** Applications for service in areas not served by existing water mains shall be governed by the provisions of Section 17.12.270 of this Code.
- (c) **Installation and Maintenance of Customer's Service Line.** The customer shall be responsible for the maintenance, repair, and any leakage in the piping from the meter to place of use.

Installation of the customer's service line shall be done by a master plumber and in accordance with the Wichita / Sedgwick Uniform Building and Trade Code.

- (d) Size of Meters. The Department shall determine the size of the meter to be installed, based upon information furnished by the applicant. Any change in meter size requested by a customer after the initial meter installation shall be granted insofar as is reasonable but the entire cost shall be borne by the customer unless determined otherwise by the Director of the Department. In cases of dispute as to meter size, the Department shall have sole jurisdiction.
- (e) Size of Department Service Line. The size of the Department service line shall be determined by the Department, based upon information furnished by the applicant. However, in no case shall the Department service line be the same size or any greater size than the water main to which it is connected. Any change in size or location of the Department service line after the original installation shall be done at customer's expense unless determined otherwise by the Director of the Department.
- (f) Special Vaults to House Meters—Cost of Construction; Location of Meter Settings and Vaults. In cases where the size of the meter is one and one-half inches or larger, or other special circumstances make it necessary to construct a special vault in which to house the meter, all costs of construction of such vault shall be borne by the applicant. Outside building meter settings and vaults shall be installed whenever possible and inside building meter installations must be approved in writing by the Director of the Department.
- (g) Same—Responsibility of Customer for Installation, Maintenance, etc. With respect to all premises served by the Department, whether located within or without the corporate limits of the city, it shall be the responsibility of the customer to install or have installed thereon, such special vaults as are prescribed by the Department according to and in conformity with specifications and drawings which shall be furnished the applicant by the Department. All such special vaults so constructed and installed on the customer premises, adjacent to the property line shall be the property of the customer. The customer shall be responsible for all maintenance and adjustment to grade of the special vault.

In instances where circumstances necessitate the location of special vaults in a public Right-of-Way for street, alley or similar public uses, the construction and installation of the special vault shall be accomplished by the customer at locations approved by the City Engineer.

(h) Connection Fees. Prior to the installation of a standard service, the applicant shall pay in advance a connection fee for the installation by the Department of the standard service line. The connection fee shall be determined by the Director of the Department, and shall be based on the actual costs of similar installation work.

For a standard service line four inches or larger, the connection fee will be based upon an estimate of cost prepared by the Department.

SECTION 2. The original of Section 17.12.040 of the Code of the City of Wichita, Kansas, is hereby repealed.

SECTION 3. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official City paper.

PASSED by the governing body of the City of Wichita, Kansas this 26 day of April, 2016.

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Jeff Longwell, Mayor

ATTEST:

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Karen Sublett, City Clerk

Approved as to Form:

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Jennifer Magaña  
Director of Law and City Attorney



## CERTIFICATE

I hereby certify that the foregoing is a true and correct copy of the original ordinance; that said Ordinance was passed on \_\_\_\_\_, 2016; that the record of the final vote on its passage is found on page \_\_\_\_ of journal \_\_\_\_; and that the Ordinance was published in ***The Wichita Eagle*** on \_\_\_\_\_, 2016.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Karen Sublett, City Clerk

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## DELINEATED

### **Section 17.12.040**

**“Requirements of applicants for new service.”** If an application is for water service to premises not previously served, the following requirements shall be met:

- (a) **Meter Settings and Service Lines in Areas Served by Existing Water Mains.** In areas where water mains exist adjacent to property to be served, the applicant, upon submission of information to the department as to the location and nature of the premises, will be provided with information as to the proposed location of the meter setting. If the customer's service line has been installed prior to the application for service, it shall be the applicant's responsibility to clearly mark the location thereof. The department shall have sole jurisdiction, however, to determine the location of the department service line, and the feasibility of a connection to the customer's service line. It shall be the applicant's responsibility at ~~his/her own~~applicant's expense to run ~~his/her~~applicant's service line from the premises being served to the meter setting at or near the curb line. The department service line meter setting and meter shall be placed within public ~~Right-of-way~~Way or such other locations as determined by the Director of Public Works & Utilities, and will be installed and maintained by the department and kept within its exclusive control.
- (b) **Areas Not Served by Existing Water Mains.** Applications for service in areas not served by existing water mains shall be governed by the provisions of Section 17.12.270.
- (c) **Installation and Maintenance of Customer's Service Line.** The customer shall be responsible for the maintenance, repair, and any leakage in the piping from the meter to place of use. Installation of the customer's service line shall be done by a master plumber and in accordance with the building code and the plumbing code of the ~~e~~City.
- (d) **Size of Meters.** The department shall determine the size of the meter to be installed, based upon information furnished by the applicant. Any change in meter size requested by a customer after the initial meter installation shall be granted insofar as is reasonable but the entire cost shall be borne by the customer unless determined otherwise by the Director of Public Works & Utilities. In cases of dispute as to meter size, the department shall have sole jurisdiction.

- (e) **Size of Department Service Line.** The size of the department service line shall be determined by the department, based upon information furnished by the applicant. However, in no case shall the department service line be the same size or any greater size than the water main to which it is connected. Any change in size or location of the department service line after the original installation shall be done at customer's expense unless determined otherwise by the Director of Public Works & Utilities.
- (f) **Special Vaults to House Meters—Cost of Construction; Location of Meter Settings and Vaults.** In cases where the size of the meter is one and one-half inches or larger, or other special circumstances make it necessary to construct a special vault in which to house the meter, all costs of construction of such vault shall be borne by the applicant. Outside building meter settings and vaults shall be installed whenever possible and inside building meter installations must be approved in writing by the Director of Public Works & Utilities or ~~his/her~~ Director's representative.
- (g) **Same—Responsibility of Customer for Installation, Maintenance, etc.** With respect to all premises served by the department, whether located within or without the corporate limits of the city, it shall be the responsibility of the customer to install or have installed thereon, such special vaults as are prescribed by the department according to and in conformity with specifications and drawings which shall be furnished the applicant by the department. All such special vaults so constructed and installed on the customer premises, adjacent to the property line shall be the property of the customer. The customer shall be responsible for all maintenance and adjustment to grade of the special vault.
- In instances where circumstances necessitate the location of special vaults in a public ~~Right-of-way~~ Way for street, alley or similar public uses, the construction and installation of the special vault shall be accomplished by the customer at locations approved by the City Engineer. ~~All such special vaults, however, located in public rights of way shall be wholly and exclusively owned by the city through its water department and it shall be solely responsible for all maintenance, repair and relocation as may be necessary.~~
- (h) **Connection Fees.** Prior to the installation of a standard service, the applicant shall pay in advance a connection fee for the installation by the department of the standard service line. The connection fee shall be determined by the Director of Public Works & Utilities, and shall be based on the actual costs of similar installation work.

For a standard service line four inches or larger, the connection fee will be based upon an estimate of cost prepared by the department.

CLEAN

(First published in *The Wichita Eagle*, on April 29, 2016)

ORDINANCE NO. 50-187

AN ORDINANCE AMENDING SECTION 24.04.200 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO SIGN REGULATIONS AND STANDARDS; PROHIBITED LOCATIONS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 24.04.200 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**Sec. 24.04.200. - Prohibited locations—General requirements.**

(a) Obstructing Windows, Doors, Etc. No sign shall be placed or erected across or so as to obstruct in any way any window, door, exit or entrance or, to or from any building, whether occupied or not, but this provision shall not prohibit placing a sign across a transom. No sign of any kind shall be attached to or placed upon a building in such a manner as to obstruct any fire escape, nor shall any sign be attached to any fire escape.

(b) Interfering with Public Safety and Convenience. No sign shall be erected, constructed, reconstructed, remodeled, relocated, altered, hung, affixed or created by painting, or maintained in any way that will interfere with public safety and convenience or with the proper and convenient operation of the Fire Department for protection of property.

(c) Across Streets or Alleys. No sign shall be suspended or constructed across any street or alley except as provided in this Chapter.

(d) Use of Public Property. No sign, except as provided in subsection (g) of Section 24.04.230, shall be supported in any way by public property. No sign shall project over public Right-of-Way except projecting signs permitted on buildings located within eight (8) feet of a Right-of-Way line. No part of any projecting sign extending over any public property shall be less than ten (10) feet from the surface immediately below, except signs not exceeding four (4) square feet in area and not projecting more than two (2) feet may be hung not less than eight (8) feet from the surface of the public property immediately below. No part of any sign permitted to

extend over any alley or public roadway, however, shall be less than fifteen (15) feet from the surface immediately below. In no case shall the outer edge of a projecting sign extend closer to the vertical plane of a street Curb than two (2) feet, unless the bottom of such sign is thirteen (13) feet, six (6) inches or more from the sidewalk immediately below. Any permit for a sign over public property issued under the provisions of this Chapter, or any previous ordinance, shall be revocable at the will of the City Council, upon notice and opportunity for hearing.

(e) Interfering with Traffic. No sign of any kind shall be erected or maintained in such a manner as to interfere with, mislead or confuse traffic or to obstruct the line of sight of any traffic signal, or traffic device as may be determined by the Traffic Engineer.

(f) Near Residences. No off-site sign shall be located within fifty (50) feet of a residential Structure.

(g) Close to Rivers, Parks. No off-site sign shall be located closer than six hundred sixty (660) feet to the established bank lines of the Big Arkansas or the Little Arkansas Rivers, to any park or recreation area under the jurisdiction of any public body including the Board of Park Commissioners.

Off-site signs may be erected within six hundred sixty (660) feet of the established bank lines of the Big Arkansas or the Little Arkansas Rivers or of any such park or recreation area when such off-site signs are located in athletic field facilities owned or operated by a public body.

(h) Near Highways. No off-site sign shall be located closer than six hundred sixty (660) feet to any portion of the existing or designated Right-of-Way of State Highway K-96 between Interstate 135 and the east city limits.

(i) Near Driveway Approach. No ground sign exceeding a height of three (3) feet, permanent or temporary, shall be located within a triangle, the sides of which are formed by the property line, the edge of the Driveway as extended from the street, and a line from a point on the property line twenty-five (25) feet from the Driveway to a point on the edge of the Driveway six (6) feet behind the property line.

(j) Posting on Utility Poles. Except as authorized by subsection (2) of Section 24.04.040 and temporary signs erected by public utilities placed on such utility poles, no sign, notice, poster or other paper or device calculated to attract the attention of the public shall be posted on any lamppost, public utility pole, or traffic control device located in the public Right-of-Way.

SECTION 2. The original of Section 24.04.200 of the Code of the City of Wichita, Kansas, is hereby repealed.

SECTION 3. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official City paper.

PASSED by the governing body of the City of Wichita, Kansas this 26th day of April, 2016.

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Jeff Longwell, Mayor

ATTEST:

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Karen Sublett, City Clerk

Approved as to Form:

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Jennifer Magaña  
Director of Law and City Attorney

## CERTIFICATE

I hereby certify that the foregoing is a true and correct copy of the original ordinance; that said Ordinance was passed on \_\_\_\_\_, 2016; that the record of the final vote on its passage is found on page \_\_\_\_ of journal \_\_\_\_; and that the Ordinance was published in ***The Wichita Eagle*** on \_\_\_\_\_, 2016.

DATED: \_\_\_\_\_

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Karen Sublett, City Clerk

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## DELINEATED

### **Section 24.04.200**

#### **“Prohibited locations—General requirements.”**

(a) Obstructing Windows, Doors, Etc. No sign shall be placed or erected across or so as to obstruct in any way any window, door, exit or entrance or, to or from any building, whether occupied or not, but this provision shall not prohibit placing a sign across a transom. No sign of any kind shall be attached to or placed upon a building in such a manner as to obstruct any fire escape, nor shall any sign be attached to any fire escape.

(b) Interfering with Public Safety and Convenience. No sign shall be erected, constructed, reconstructed, remodeled, relocated, altered, hung, affixed or created by painting, or maintained in any way that will interfere with public safety and convenience or with the proper and convenient operation of the ~~fFire dDepartment~~ for protection of property.

(c) Across Streets or Alleys. No sign shall be suspended or constructed across any street or alley, except as provided in this Chapter.

(d) Use of Public Property. No sign, except as provided in subsection (g) of Section 24.04.230, shall be supported in any way by public property. No sign shall project over public ~~R~~right-of-~~w~~Way except projecting signs permitted on buildings located within eight (8) feet of a ~~R~~right-of-~~w~~Way line. No part of any projecting sign extending over any public property shall be less than ten (10) feet from the surface immediately below, except signs not exceeding four (4) square feet in area and not projecting more than two (2) feet may be hung not less than eight (8) feet from the surface of the public property immediately below. No part of any sign permitted to extend over any alley or public roadway, however, shall be less than fifteen (15) feet from the surface immediately below. In no case shall the outer edge of a projecting sign extend closer to the vertical plane of a street ~~C~~urb than two (2) feet, unless the bottom of such sign is thirteen feet (13), six (6) inches or more from the sidewalk immediately below. Any permit for a sign over public property issued under the provisions of this Chapter, or any previous ordinance, shall be revocable at the will of the ~~C~~city ~~C~~ouncil, upon notice and opportunity for hearing.

(e) Interfering with Traffic. No sign of any kind shall be erected or maintained in such a manner as to interfere with, mislead or confuse traffic or to obstruct the line of sight of any traffic signal, or traffic device as may be determined by the ~~traffic commission~~ Traffic Engineer.

(f) Near Residences. No off-site sign shall be located within fifty (50) feet of a residential ~~S~~structure.

(g) Close to Rivers, Parks. No off-site sign shall be located closer than six hundred sixty (660) feet to the established bank lines of the Big Arkansas or the Little Arkansas Rivers, to any park or recreation area under the jurisdiction of any public body including the ~~B~~board of ~~P~~park ~~C~~ommissioners of the city.

Off-site signs may be erected within six hundred sixty (660) feet of the established bank lines of the Big Arkansas or the Little Arkansas Rivers or of any such park or recreation area when such off-site signs are located in athletic field facilities owned or operated by a public body.

(h) Near Highways. No off-site sign shall be located closer than six hundred sixty (660) feet to any portion of the existing or designated ~~R~~ight-of-~~w~~ay of State Highway K-96 between Interstate 135 and the east city limits.

(i) Near Driveway Approach. No ground sign exceeding a height of three (3) feet, permanent or temporary, shall be located within a triangle, the sides of which are formed by the property line, the edge of the ~~D~~riveway as extended from the street, and a line from a point on the property line twenty-five (25) feet from the driveway to a point on the edge of the driveway six (6) feet behind the property line.

(j) Posting on Utility Poles. Except as authorized by subsection (2) of Section 24.04.040 and temporary signs erected by public utilities placed on such utility poles, no sign, notice, poster or other paper or device calculated to attract the attention of the public shall be posted on any lamppost, public utility pole, or traffic control device located in the public ~~R~~ight-of-~~w~~ay.

*(Ord. No. 45-322 § 1; Ord. No. 40-963 (part))*

CLEAN

(First published in *The Wichita Eagle*, on April 29, 2016)

ORDINANCE NO. 50-188

AN ORDINANCE ADMENDING SECTIONS 11.22.010 AND 11.22.050 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO INTERSECTIONS AND REPEALING THE ORIGINALS THEREOF.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 11.22.010 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**Sec. 11.22.010. - Obstructing view prohibited.**

The Traffic Engineer or the Traffic Engineer's designee shall determine, based on engineering judgment, the AASHTO publication, "A Policy on Geometric Design of Highways and Streets," (current edition), and this Section, if a sight obstruction exists. Sight obstructions shall be prohibited at controlled and uncontrolled intersections of public streets.

Uncontrolled Intersections. In all areas, on private or public property at any corner formed by intersecting streets, it is unlawful to install, set out, maintain, allow to remain, or allow the installation, setting out or maintenance of any sign, fence, hedge, shrubbery, natural growth or any other obstruction to view, regardless of nature, within the vision triangle as determined by a triangle whose sides are ninety feet measured along the centerlines of the approach streets from their point of intersection.

Controlled Intersections. In all areas, on private or public property, at any corner formed by intersecting streets where the Right-of-Way is assigned to the major street and the minor street is stop-controlled, it is unlawful to install, set out, maintain, allow to remain, or allow the installation, setting out or maintenance of any sign, fence, hedge, shrubbery, natural growth or any other obstruction to view, regardless of nature, within the vision triangle. This vision triangle shall have its shorter side equal to one-half ( $\frac{1}{2}$ ) the major street width plus fifteen (15) feet and the longer side equal to distance determined in the following tables:

Required Sight Distance  
Sight Restriction to the Left (ft.)

Approximate Width of Major Street (ft.)	Major Street Number of Lanes	Major Street Parking	Major Street Speed Limit (mph)						
			25	30	35	40	45	50	55
30	2	No	165	200	230	265	300	330	365
40	2	Yes	185	220	260	295	330	365	405
50	4	No	185	220	260	295	330	365	405
44	2	Yes	190	225	265	300	340	375	415
44	4	No	190	225	265	300	340	375	415
48	2	Yes	190	230	270	305	345	380	420
48	4	No	190	230	270	305	345	380	420
64	4	Yes	200	240	280	320	365	405	445
64	4	No	200	240	280	320	365	405	445

Required Sight Distance  
Sight Restriction to the Right (ft.)

Approximate Width of Major Street (ft.)	Major Street Number of Lanes	Major Street Parking	Major Street Speed Limit (mph)						
			25	30	35	40	45	50	55
30	2	No	195	235	270	310	350	390	430
40	2	Yes	205	245	280	325	365	405	445
40	4	No	215	255	300	340	385	425	470
44	2	Yes	210	250	295	335	375	420	460
44	4	No	220	265	310	350	395	440	485
48	2	Yes	215	255	300	340	385	425	470
48	4	No	230	270	320	365	410	455	500
64	4	Yes	255	305	355	405	455	505	560
64	4	No	265	320	370	425	475	530	580

SECTION 2. Section 11.22.050 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

**Sec. 11.22.050. - Authority of the City Engineer.**

(a) Appeals. The City Engineer shall have the power to hear and decide appeals where it is alleged that the Traffic Engineer's interpretation is in error in any order, requirement, decision or determination whereby the Traffic Engineer orders the abatement of a sight obstruction.

(b) Variances. The City Engineer may authorize, in specific cases, a variance from the specific terms of Section 11.22.010 which shall not be contrary to the public interest and where, owing to specific conditions, a literal enforcement of the conditions of Section 11.22.010, in an individual case, would result in unnecessary hardship; and provided, that the spirit of Section 11.22.010 shall be observed, public safety and welfare secured, and substantial justice done. A request for a variance may be granted upon the finding of the City Engineer that the following conditions have been met: (1) That the sight obstruction would not prevent a driver from taking evasive maneuvers to prevent an accident; (2) That a strict enforcement of Section 11.22.010 would result in an unnecessary hardship upon the individual requesting the variance; (3) That the existing alleged sight obstruction does not prevent a clear and unobstructed crossview of persons or objects approaching the intersection; and (4) That granting the variance desired will not be opposed to the general spirit and intent of Section 11.22.010.

(c) Appeal. Any Person, official or governmental agency dissatisfied with any order or determination of the City Engineer may appeal such order or determination to the City Council within ten (10) days of the issuance of the order. An appeal taken to the City Council shall be on the record of the hearing before the City Engineer.

(d) Review of Existing Variances. Any variance to the sight obstruction ordinance that has been granted in the past shall be subject to review by the City Engineer at any time after a one-year (1) period has passed from the date the variance was granted. In said review, the City Engineer shall determine if all necessary conditions upon which the first variance was granted still exist. If the conditions necessary for granting the variance do not exist, the City Engineer shall withdraw the variance. The property owner shall thereafter remove the sight obstruction within twenty (20) days after the City Engineer withdraws the variance or shall appeal the City Engineer's ruling to the City Council within twenty (20) days after the City Engineer withdraws the variance. The property owner shall be given notice of the fact that a hearing is to be held to review the variance previously granted by the City Engineer in the same manner as described in Section 11.22.040(a) and said notice shall be given at least twenty (20) days in advance of the date the hearing is scheduled. The Traffic Engineer shall have the authority to request the City Engineer to review any variance previously granted.

SECTION 3. The original of Sections 11.22.010 and 11.22.050 of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 4. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official City paper.

PASSED by the governing body of the City of Wichita, Kansas this 26th day of April, 2016.

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Jeff Longwell, Mayor

ATTEST:

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Karen Sublett, City Clerk

Approved as to Form:

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Jennifer Magaña  
Director of Law and City Attorney

## CERTIFICATE

I hereby certify that the foregoing is a true and correct copy of the original ordinance; that said Ordinance was passed on \_\_\_\_\_, 2016; that the record of the final vote on its passage is found on page \_\_\_\_ of journal \_\_\_\_; and that the Ordinance was published in ***The Wichita Eagle*** on \_\_\_\_\_, 2016.

DATED: \_\_\_\_\_

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Karen Sublett, City Clerk

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## DELINEATED

### **Sec. 11.22.010. - Obstructing view prohibited.**

The Traffic Engineer or the Traffic Engineer's designee shall determine, based on engineering judgment and the AASHTO publication, "A Policy on Geometric Design of Highways and Streets," (current edition), and this Section, if a sight obstruction exists. Sight obstructions shall be prohibited at controlled and uncontrolled intersections of public streets.

Uncontrolled Intersections. In all areas, on private or public property at any corner formed by intersecting streets, it is unlawful to install, set out, maintain, allow to remain, or allow the installation, setting out or maintenance of any sign, fence, hedge, shrubbery, natural growth or any other obstruction to view, regardless of nature, within the vision triangle as determined by a triangle whose sides are ninety feet measured along the centerlines of the approach streets from their point of intersection.

Controlled Intersections. In all areas, on private or public property, at any corner formed by intersecting streets where the ~~R~~ight-of-~~w~~ay is assigned to the major street and the minor street is stop-controlled, it is unlawful to install, set out, maintain, allow to remain, or allow the installation, setting out or maintenance of any sign, fence, hedge, shrubbery, natural growth or any other obstruction to view, regardless of nature, within the vision triangle. This vision triangle shall have its shorter side equal to one-half ( $\frac{1}{2}$ ) the major street width plus fifteen (15) feet and the longer side equal to distance determined in the following tables:

REQUIRED SIGHT DISTANCE  
SIGHT RESTRICTION TO THE LEFT

Approximate Width Major Street	Number of Lanes Major Street	Parking Major Street	Major Street Speed M.P.H.						
			25	30	35	40	45	50	55
30	2	No	165	200	230	265	300	330	365
40	2	Yes	185	220	260	295	330	365	405
50	4	No	185	220	260	295	330	365	405
44	2	Yes	190	225	265	300	340	375	415
44	4	No	190	225	265	300	340	375	415



48	2	Yes	190	230	270	305	345	380	420
48	4	No	190	230	270	305	345	380	420
64	4	Yes	200	240	280	320	365	405	445
64	4	No	200	240	280	320	365	405	445

**REQUIRED SIGHT DISTANCE  
SIGN RESTRICTION TO THE RIGHT**

Approximate Width Major Street	Number of Lanes Major Street	Parking Major Street	Major Street Speed M.P.H.						
			25	30	35	40	45	50	55
30	2	No	195	235	270	310	350	390	430
40	2	Yes	205	245	280	325		5	445
40	4	No	215	255	300	340	385	425	470
44	2	Yes	210	250	295	335	375	420	460
44	4	No	220	265	310	350	395	440	485
48	2	Yes	215	255	300	340	385	425	470
48	4	No	230	270	320	365	410	455	500
64	4	Yes	255	305	355	405	455	505	560
64	4	No	265	320	370	425	475	530	580

*(Ord. No. 39-087)*

**Sec. 11.22.050. - Authority of the City Engineer~~traffic commission~~.**

(a) Appeals. The ~~traffic commission~~City Engineer shall have the power to hear and decide appeals where it is alleged that the ~~the~~Traffic Engineer's interpretation is in error in any order, requirement, decision or determination ~~made by him~~ whereby ~~he~~ the Traffic Engineer orders the abatement of a sight obstruction.

(b) Variances. The ~~traffic commission~~City Engineer may authorize, in specific cases, a variance from the specific terms of Section 11.22.010 which shall not be contrary to the public interest and where, owing to specific conditions, a literal enforcement of the conditions of Section 11.22.010, in an individual case, would result in unnecessary hardship; and provided, that the spirit of Section 11.22.010 shall be observed, public safety and welfare secured, and substantial justice done. A request for a variance may be granted upon the finding of the ~~traffic commission~~City Engineer that the following conditions have been met: (1) That the sight obstruction would not prevent a driver from taking evasive maneuvers to prevent an accident; (2) That a strict enforcement of Section 11.22.010 would result in an unnecessary hardship upon the individual requesting the variance; (3) That the existing alleged sight obstruction does not prevent a clear and unobstructed crossview of persons or objects approaching the intersection; and (4) That granting the variance desired will not be opposed to the general spirit and intent of Section 11.22.010.

(c) Appeal. Any ~~P~~person, official or governmental agency dissatisfied with any order or determination of the ~~traffic commission~~City Engineer may appeal such order or determination to the ~~e~~City Council~~commission~~ within ten (10) days of the issuance of the order. An appeal taken to the ~~e~~City Council~~commission~~ shall be on the record of the hearing before the ~~traffic commission~~City Engineer.

(d) Review of Existing Variances. Any variance to the sight obstruction ordinance that has been granted in the past shall be subject to review ~~at any time~~ by the ~~traffic commission~~City Engineer at any time after a one-year (1) period has passed from the date the variance was granted. In said review, the ~~traffic commission~~City Engineer shall determine if all necessary conditions upon which the first variance was granted still exist. If the conditions necessary for granting the variance do not exist, the ~~traffic commission~~City Engineer shall withdraw the variance. The property owner shall thereafter remove the sight obstruction within twenty (20) days after the ~~traffic commission~~City Engineer withdraws the variance or shall appeal the ~~traffic commission~~City Engineer's ruling to the ~~e~~City Council~~commission~~ within twenty (20) days after the ~~traffic commission~~City Engineer withdraws the variance. The property owner shall be given notice of the fact that a hearing is to be held to review the variance previously granted by the ~~traffic commission~~City Engineer in the same manner as described in Section 11.22.040(a) and said notice shall be given at least twenty (20) days in advance of the date the hearing is

scheduled. The ~~†Traffic e~~Engineer shall have the authority to request the ~~traffic commission~~City  
Engineer to review any variance previously granted.

~~(Ord. No. 34-243 (part))~~

**Revised 4-18-16**

CLEAN

(First Published in *The Wichita Eagle*, on April 29, 2016)

ORDINANCE NO. 50-189

AN ORDINANCE CREATING SECTION 10.34 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO FEES.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. Section 10.34.010 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

In accordance with the provisions of Title 10, permit and license processing charges will be as established in the following table.

Permit or License	Charge
Use of right-of-way permit – one time processing charge	\$125
Use of Easement Permit – one time processing charge	<del>\$380</del> \$330
Contractor License Exam	\$70
Contractor License Fee (per year)	\$60
Sidewalk permit – 20 feet or fewer (per address)	\$90
Sidewalk permit – more than 20 feet (per address)	\$105
Overweight Vehicle	\$55
Wheel Chair ramp / Curb Cut / Flumes (per address)	\$100
Dirt cut permit (per block)	\$150
Pavement Cut permit (per block)	\$100
Above Ground Structure Permit (each)	\$240
Test well (each)	\$100
Parking meter hood (per day, each)	\$20
Use of street permit—Base Processing Charge (each)	\$55
Use of street permit (per square foot)	\$0.009
Temporary asphalt/unpaved permit (per address)	\$60

SECTION 2. Section 10.34.020 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

The charges in this Section are intended to offset the actual cost of inspections and the recovery of the costs of the permitting process. Beginning in 2016, the charges above shall be adjusted by applying an increase commensurate with a running average of the Consumer Price Index for all Urban Consumers (CPI-U) for the preceding three years; this charge and the adjustment thereof shall be determined by the City Engineer and be adjusted in \$5 increments except for the Use of Street Permit charges, which shall be adjusted in \$0.001 increments.

Section 10.34.030 of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

In accordance with the provisions of Chapter 10.08, annual fees will be as established in the following tables.

**“Annual permit fees for non-residential properties—Established.”** Any applicant desiring a Use Permit, shall, upon approval of application, pay a fee as required by this Section. The annual permit fees for Use Permits shall be as set forth in this section. Except as described in Section 10.08.210 (e), the minimum annual permit fee for Use Permits shall be twenty-five (25) dollars.

ENCROACHMENT DESCRIPTION	ANNUAL FEE
(1) At-grade scales for vehicles.	\$0.65 / square ft.
(2) Ventilation and other ducts, sidewalk elevators, and similar Structures.	\$0.65 / square ft.
(3) Bridges, roofs, canopies, and similar Structures.	\$0.30 / square ft
(4) Clocks, sculptures, and similar Structures.	\$25.00 / each
(5) Fences, walls, retaining walls, and similar Structures.	\$1.00 / linear ft.
(6) Overhead hoist beams and cranes.	\$31.00 / each
(7) Permanent flag poles and light poles supported by public property, (not permitted in footway).	\$25.00 / each
(8) Fire escapes, steps, docks, loading platforms, or landings.	\$12.50 / square ft.
(9) Tunnels for private use.	\$0.25 / cubic ft.
(10) Tanks under public property, including necessary connection pipes and other appurtenances.	\$0.15 / gallon of capacity

All tank installations shall be regulated by the International Building Code, the International Fire Code, and any applicable City e-zoning ordinances, and any other applicable regulations. No tank installation shall be used for storage of material with a flash point below 37.8°C (100.0°F), as listed on the material's MSDS sheet.	
(11) Manholes, coalholes, vaults or subsurface spaces other than tunnels. The space shall be measured from the private property line to the outside of the wall enclosing the space and from the floor of the space to the traffic surface.	\$0.05 / cubic ft.
(12) Car tracks (private, not operated by common carrier).	\$2.50 / linear ft.
(13) Pipe lines, wires, or conduits not exceeding five hundred (500) feet in length and two (2) feet in diameter that are not public utilities.	\$1.50 / linear ft.
(14) Pipes over two (2) feet in diameter are not permitted except by special permission of the City Engineer.	Determined by City Engineer
(15) Pipes exceeding five hundred (500) feet in length.	\$2.50 / linear ft.
(16) Use of streets, alleys or other public right-of-way. This section is for any use not categorized including paved parking in the right-of-way.	
(a) In the area bounded on the south by the centerline of Waterman Street, on the west by the centerline of the Arkansas River, on the north by the centerline of Central Street, and on the east by the centerline of Washington Street.	\$1.00 / square ft.
(b) In the remainder of the City the use of the five thousand (5,000) square feet of land or less.	\$0.50 / square ft.
(c) In the remainder of the City, the use of five thousand (5,000) square feet of land or more is subject to the approval of the City Manager.	Determined by City Manager
(17) Use of drainage dedications or easements for purposes such as gardens or fenced-in areas.	\$0.03 / square ft.
(18) Wells, either supply or discharge, on public property, including necessary connection pipes and appurtenances.	\$25.00 / each
(19) Bollards.	\$5.00 / each
(20) Benches.	\$25.00 / each
(21) Open drainage Structures of any type.	\$0.50 / square ft.
(22) Any other Encroachment, including planters.	\$10.00 / square ft.
(23) "Sandwich board" signs with an area of twelve (12) square feet or less (subject to approval by MABCD)	\$25.00 / sign plus MABCD fees
(24) All other signs, per square foot of sign face (one side only) (subject to approval by MABCD)	\$1.00 / square ft. plus MABCD fees

**“Same—Annual permit fees for residential properties—Established.”** Any Permittee desiring a Use Permit for use by a single-family residence shall, upon approval of application, pay a fee as required by this section. The annual permit fees for Use Permit shall be as set forth in this section. The minimum annual permit fee for Use Permits shall be twenty-five (25) dollars.

ENCROACHMENT DESCRIPTION	ANNUAL FEE
(1) Brick pavers or colored/tinted/stamped/embossed concrete that complies with the requirements of the Americans with Disabilities Act.	\$0.10 / square ft.
(2) Fences, walls, retaining walls, and similar Structures, provided any such Structures are “good neighbor” Structures, with the finished side facing the Right-of-Way or the adjacent property.	\$0.25 / linear ft.
(3) Drainage flumes, walkways, or any flatwork other than standard Drive approaches or sidewalks that comply with the requirement of the Americans with Disabilities Act.	\$0.10 / square ft.

SECTION 4. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official City paper.

PASSED by the governing body of the City of Wichita, Kansas this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Jeff Longwell, Mayor

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

Approved as to Form:

\_\_\_\_\_  
Jennifer Magaña  
Director of Law and City Attorney



## CERTIFICATE

I hereby certify that the foregoing is a true and correct copy of the original ordinance; that said Ordinance was passed on \_\_\_\_\_, 2016; that the record of the final vote on its passage is found on page \_\_\_\_ of journal \_\_\_\_; and that the Ordinance was published in ***The Wichita Eagle*** on \_\_\_\_\_, 2016.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Karen Sublett, City Clerk

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## City of Wichita Right-of-Way and Easement Permits

### Use Permit One-Time Processing Fees

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The following table summarizes permit activity for 2014, current permit fees, and the proposed fees to provide 100% City staff cost recovery.

Permit	2014 Activity	Current Fee	Proposed Fee for 100% Cost Recovery
Use of easement permit – one time processing charge (replaces hold harmless)	3	\$50	\$330
Use of right-of-way - one time processing charge (replaces Minor Street Permit)	216	\$70	\$125
Contractor license - test	19	\$50	\$70
Contractor license - annual	179	\$60	\$60
Contractor license - six month	2	\$40	NA*
Contractor license - three month	13	\$30	NA*
Sidewalk permit - 0 to 20 feet (per address)	64	\$35	\$90
Sidewalk permit - over 20 feet (per address)	87	\$60	\$105
Overweight vehicles	242	\$10	\$55
Wheel chair ramp / curb cuts / flumes (per address)	957	\$70	\$100
Dirt cut permit (per block)	2,378	\$35	\$150
Pavement cut permit (per block)	919	\$70	\$100
Above Ground Structure Permits (incl dirt cut) (each)	104	\$70	\$200
Test wells (per well)	59	\$70	\$100
Parking meter hood (per day, each)	14	\$4	\$20
Use of street permit (admin fee) (each)	10	\$40	\$55
Use of street permit - per square foot	5,612,060	\$0.007	\$0.009
Temporary asphalt/unpaved permits (per address)	234	\$25	\$60

\*The six and three month contractor license options are proposed to be removed.

Title IX of the Municipal Code is proposed to be amended, including the adjusted fees. The amendment will include the following language related to future fee adjustments:

SECTION 2. Section 10.34.020, of the Code of the City of Wichita, Kansas, is hereby created to read as follows:

The charges in this Section are intended to offset the actual cost of inspections and the recovery of the costs of the permitting process. Beginning in 2017, the charges above shall be adjusted by applying an increase commensurate with a running average of the Consumer Price Index for all Urban Consumers (CPI-U) for the preceding three years; this charge and the adjustment thereof shall be determined by the City Engineer and be adjusted in \$5 increments except for the Use of Street Permit charges, which shall be adjusted in \$0.001 increments.

## Use Permit Annual Fees

The following table summarizes proposed changes to Section 10.08.170 regarding use permit annual fees. Proposed annual fees were derived by comparing current fees to similar size cities (Wichita less than all) and utilizing standard property values to develop an equivalent "rental" fee. All fees are a minimum \$25.

ENCROACHMENT DESCRIPTION	CURRENT FEE	PROPOSED FEE
(1) At-grade scales for vehicles.	\$ 0.65 / square ft.	\$ 0.65 / square ft.
(2) Ventilation and other ducts, sidewalk elevators, and similar Structures.	\$ 0.65 / square ft.	\$ 0.65 / square ft.
(3) Bridges, roofs, canopies, and similar Structures.	\$ 0.65 / square ft.	\$ 0.30 / square ft.
(4) Clocks, sculptures, and similar Structures.	\$25.00 / each	\$25.00 / each
(5) Fences, walls, retaining walls, and similar Structures.	NA	\$1.00 / linear ft.
(6) Overhead hoist beams and cranes.	\$31.00 / each	\$ 31.00 / each
(7) Permanent flag poles and light poles supported by public property, (not permitted in footway).	\$25.00 / each	\$ 25.00 / each
(8) Fire escapes, steps, docks, loading platforms, or landings.	\$12.50 / square ft.	\$ 12.50 / square ft.
(9) Tunnels for private use.	\$ 0.20 / cubic ft.	\$ 0.25 / cubic ft.
(10) Tanks under public property, including necessary connection pipes and other appurtenances. All tank installations shall be regulated by the International Building Code, the International Fire Code, and any applicable City e-zoning ordinances, and any other applicable regulations. No tank installation shall be used for storage of material with a flash point below 37.8°C (100.0°F), as listed on the material's MSDS sheet.	\$ 0.15 / gallon of capacity	\$ 0.15 / gallon of capacity
(11) Manholes, coalholes, vaults or subsurface spaces other than tunnels. The space shall be measured from the private property line to the outside of the wall enclosing the space and from the floor of the space to the traffic surface.	\$ 0.65 / cubic ft.	\$ 0.05 / cubic ft.
(12) Car tracks (private, not operated by common carrier).	\$2.50 / linear ft.	\$ 2.50 / linear ft.
(13) Pipe lines, wires, or conduits not exceeding five hundred (500) feet in length and two (2) feet in diameter that are not public utilities.	\$ 1.25/ linear ft.	\$ 1.50 / linear ft.
(14) Pipes over two (2) feet in diameter are not permitted except by special permission of the City Engineer.	Permitted by City Council	Determined by City Engineer
(15) Pipes exceeding five hundred (500) feet in length.	\$15.00 each additional foot	\$ 2.50 / linear ft.
(16) Use of streets, alleys or other public right-of-way. This section is for any use not categorized including paved parking in the right-of-way.		
(a) In the area bounded on the south by the centerline of Waterman Street, on the west by the centerline of the Arkansas River, on the north by the centerline of Central Street, and on the east by the centerline of Washington Street.	\$ 0.65 / square ft.	\$ 1.00 / square ft.
(b) In the remainder of the City the use of the five thousand (5,000) square feet of land or less.	\$ 0.30 / square ft.	\$ 0.50 / square ft.
(c) In the remainder of the City, the use of five thousand (5,000) square feet of land or more is subject to the approval of the City Manager.	NA	Determined by City Manager
(17) Use of drainage dedications or easements for purposes such as gardens or fence-in areas.	\$ 0.03 / square ft.	\$ 0.03 / square ft.
(18) Wells, either supply or discharge, on public property, including necessary connection pipes and appurtenances.	\$25.00 / each	\$ 25.00 / each
(19) Bollards.	NA	\$ 5.00 / each
(20) Streetscaping Benches Bike racks Portable planters	NA	\$ 5.00 / each
(21) Open drainage Structures of any type.	NA	\$ 0.50 / square ft.
(22) Any other Encroachment, including permanent planters.	NA	\$ 10.00 / square ft.
(23) "Sandwich board" signs with an area of twelve (12) square feet or less (subject to approval by MABCD)	NA	\$ 25.00 / sign plus MABCD fees

(24) "Monument" signs (subject to approval by MABCD)	NA	\$10.00 / square foot of footprint plus MABCD fees
(25) All other signs, per square foot of sign face (one side only) (subject to approval by MABCD)	\$1.00 / square ft. plus MABCD fees	\$1.00 / square ft. plus MABCD fees

Wichita, Kansas  
April 18, 2016  
10:00 a.m., Monday  
Conference Room, 12<sup>th</sup> Floor

#### MINUTES - BOARD OF BIDS AND CONTRACTS\*

The Board of Bids and Contracts met with Kim Pelton, Administrative Aide II, Public Works, Fanny Chan, Accountant, Finance, representing the Director of Finance, John Page, Budget Analyst, Budget Office, Clarence Rose, Senior Buyer, representing Purchasing, John Emerson, Fellow, representing the City Manager's Office and Janis Edwards, Deputy City Clerk, present.

Minutes of the regular meeting date April 11, 2016, were read and on motion approved.

Bids were opened April 15, 2016, pursuant to advertisements published on:

**13th Court North from the north line of 13th Street, north to and including the cul-de-sac; Nantucket from the west line of 135th Street, west to the east line of Reserve A; Nickelton from the north line of Nantucket north to the south line of Hunters View; Hunters View from the west line of 135th Street, west to the east line of Reserve B to serve Copper Gate 3rd Addition (north of 13th Street North, west of 135th Street West) (472-85259/766356/490378) Does not affect existing traffic. (District V)**

Cornejo and Sons, LLC - \$316,534.30

**Water Distribution System to serve Krug South Addition (south of 21st Street North, west of 143rd Street East) (448-90562/735548/470221) Traffic to be maintained during construction using flagpersons and barricades. (District II)**

Duling Construction - \$27,340.00

**2016 Outsourced Pavement Preservation Program CIP Concrete Street Repairs, Phase 1 (Various Locations) (472-85260/707094/620837/133116/211551/666005) Traffic to be maintained during construction using flagpersons and barricades. (District VI)**

PPJ Construction Inc.\*- \$533,000.00      \*Engineer's Estimate

Purchasing Manager recommended that the contracts be awarded as outlined above, subject to check, same being the lowest and best bids within the Engineer's construction estimate.

On motion the Board recommended tha the contracts be awarded as outlined above, subject to check, same being the lowest and best bids within the Engineer's construction estimate.

**PUBLIC WORKS AND UTILITIES DEPARTMENT/FLEET AND FACILITIES DIVISION: New Advanced Learning Library.**

Defer one week

**PUBLIC WORKS AND UTILITIES DEPARTMENT/FLEET AND FACILITIES DIVISION: 11,000  
GVW Regular Cab and Chassis.**

Don Hattan Chevorlet Inc. -\$51,000.00 Base Bid

N/A Option 1- Each  
\$3,500.00 Option 2- Each  
\$4,600.00 Option 3- Each  
\$475.00 Option 4- Each  
\$1,450.00 Option 5- Each  
\$700.00 Option 6- Each  
\$1,350.00 Option 7- Each  
\$2,500.00 Option 8- Each  
\$2,050.00 Option 9- Each  
\$2,700.00 Option 10- Each  
\$800.00 Option 11-Each  
\$1,300.00 Option 12-Each  
\$4,500.00 Option 13-Each  
N/C Option 14-Each  
N/A Option 15-Each  
Standard Option 16- Each  
Standard Option 17-Each  
\$1,450.00 Option 18-Each  
\$4,300.00 Option 19-Each  
\$4,750.00 Option 20-Each  
\$925.00 Option 21-Each  
\$900.00 Option 22-Each  
\$800.00 Option 23-Each  
\$11,580.00 Option 24-Each  
\$7,650.00 Option 25-Each

**PUBLIC WORKS AND UTILITIES DEPARTMENT/FLEET AND FACILITIES DIVISION: Impact  
Rock Crusher.**

Murphy Tractor and Equipment Company Inc. - \$800,000.00 Base Bid

\$11,257.00 Option 1 -Each  
<\$45,000.00> Option 2 -Deduct

The Purchasing Division recommended that the contracts be awarded/deferred as outlined above, same being the lowest and best bid.

On motion the Board recommended that the contracts be awarded/deferred as outlined above, same being the lowest and best bid.

On motion the Board of Bids adjourned.

\_\_\_\_\_  
Kim Pelton, Administrative Aide II  
Department of Public Works

\_\_\_\_\_  
Janis Edwards, CMC  
Deputy City Clerk

**FORMAL BID REPORT****TO:** Robert Layton, City Manager**DATE:** April 18, 2016**ENGINEERING BIDS – GARY JANZEN, CITY ENGINEER****April 15, 2016**

Paving – 13<sup>th</sup> Court North, Nantucket, Nickelfton, Hunters View to serve Copper Gate 3<sup>rd</sup> Addition – Public Works & Utilities Department/Engineering Division

**Cornejo & Sons, LLC****\$316,534.30**

Water Distribution System to serve Krug South Addition – Public Works & Utilities Department/Engineering Div.

**Duling Construction****\$27,340.00**

2016 OP3 CIP Concrete Street Repairs, Phase 1 (various locations) – Public Works & Utilities Department/Engineering Division

**PPJ Construction, Inc.****(Engineer's Estimate)****\$533,000.00****PURCHASING BIDS – MELINDA A. WALKER, PURCHASING MANAGER****April 15, 2016**

New Advanced Learning Library – Public Works & Utilities Department/Fleet & Facilities Division

**(Defer to April 25, 2016)**

11,000 GVW Regular Cab and Chassis Pickup Truck – Public Works & Utilities Dept./Fleet & Facilities Division

**Don Hattan Chevrolet, Inc.****Base Bid \$51,000.00****Option 1 N/A****Option 2 (Add) (Per Each) \$3,500.00****Option 3 (Add) (Per Each) \$4,600.00****Option 4 (Add) (Per Each) \$475.00****Option 5 (Add) (Per Each) \$1,450.00****Option 6 (Add) (Per Each) \$700.00****Option 7 (Add) (Per Each) \$1,350.00****Option 8 (Add) (Per Each) \$2,500.00****Option 9 (Add) (Per Each) \$2,050.00****Option 10 (Add) (Per Each) \$2,700.00****Option 11 (Add) (Per Each) \$800.00****Option 12 (Add) (Per Each) \$1,300.00****Option 13 (Add) (Per Each) \$4,500.00****Option 14 No Charge****Option 15 N/A****Option 16 Standard****Option 17 Standard****Option 18 (Add) (Per Each) \$1,450.00****Option 19 (Add) (Per Each) \$4,300.00****Option 20 (Add) (Per Each) \$4,750.00****Option 21 (Add) (Per Each) \$925.00****Option 22 (Add) (Per Each) \$900.00****Option 23 (Add) (Per Each) \$800.00****Option 24 (Add) (Per Each) \$11,580.00****Option 25 (Add) (Per Each) \$7,650.00**

Impact Rock Crusher – Public Works & Utilities Department/Fleet & Facilities Division	
Murphy Tractor & Equipment Co., Inc. (Deferred From April 11, 2016) Base Bid	\$800,000.00
Option 1 (Add) (Per Each)	\$11,257.00
Option 2 (Deduct)	\$45,000.00

ITEMS TO BE PURCHASED AS ADVERTISED IN THE OFFICIAL CITY NEWSPAPER.

  
Melinda A. Walker  
Purchasing Manager



## PAVING BID TABULATION SUMMARY

BOARD OF BIDS - April 15, 2016

RQ640485

FB640074		Engineer's Construction Estimate	APAC - Kansas Inc	Comejo & Sons LLC	Kansas Paving Company
13th Court North, Nantucket, Nickelton, Hunters View		\$389,363.00	\$325,150.10	\$316,534.30	\$369,581.85
Copper Gate 3rd Addition	BID BOND				
472-85259 (766356)	ADDENDA	0			
		Engineer's Construction Estimate	Dondlinger & Sons		
13th Court North, Nantucket, Nickelton, Hunters View		\$389,363.00			
Copper Gate 3rd Addition	BID BOND				
472-85259 (766356)	ADDENDA	0			
		Engineer's Construction Estimate			
13th Court North, Nantucket, Nickelton, Hunters View		\$389,363.00			
Copper Gate 3rd Addition	BID BOND				
472-85259 (766356)	ADDENDA	0			
		Engineer's Construction Estimate			
13th Court North, Nantucket, Nickelton, Hunters View		\$389,363.00			
Copper Gate 3rd Addition	BID BOND				
472-85259 (766356)	ADDENDA	0			

CHECKED BY: JPREVIEWED BY: PS

# WATER BID TABULATION SUMMARY

BOARD OF BIDS - April 15, 2016

RQ640486

FB640075		Engineer's Construction Estimate	Dondlinger & Sons	Duling Construction	Mies Construction
Water Distribution System		\$30,335.00	\$29,910.00	\$27,340.00	\$32,732.50
Krug South Addition	BID BOND				
448-90562	ADDENDA	0			
(735548)					
		Engineer's Construction Estimate	McCullough Excavation	Nowak Construction	Wilks Underground Utilities LLC
Water Distribution System		\$30,335.00	\$27,645.00	\$28,290.50	\$31,855.00
Krug South Addition	BID BOND				X
448-90562	ADDENDA	0			
(735548)					
		Engineer's Construction Estimate	Wildcat Construction	Stannard Construction d/b/a WB Carter	
Water Distribution System		\$30,335.00			
Krug South Addition	BID BOND				
448-90562	ADDENDA	0			
(735548)					
		Engineer's Construction Estimate			
Water Distribution System		\$30,335.00			
Krug South Addition	BID BOND				
448-90562	ADDENDA	0			
(735548)					

CHECKED BY: KPREVIEWED BY: PS

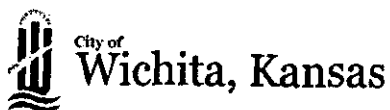
## PAVING BID TABULATION SUMMARY

BOARD OF BIDS - April 15, 2016

RQ640487

FB640076		Engineer's Construction Estimate	Barkley Construction	Kansas Paving Company	PPJ Construction Inc.
2016 OP3 CIP Concrete Street Repairs, Phase 1		\$533,000.00	\$691,390.00	\$655,210.00	\$461,568.00
(various locations)	BID BOND				X
	ADDENDA	0			
472-85260 (707094/620837/133116)					
		Engineer's Construction Estimate	Dondlinger & Sons		
2016 OP3 CIP Concrete Street Repairs, Phase 1		\$533,000.00			
(various locations)	BID BOND				
	ADDENDA	0			
472-85260 (707094/620837/133116)					
		Engineer's Construction Estimate			
2016 OP3 CIP Concrete Street Repairs, Phase 1		\$533,000.00			
(various locations)	BID BOND				
	ADDENDA	0			
472-85260 (707094/620837/133116)					
		Engineer's Construction Estimate			
2016 OP3 CIP Concrete Street Repairs, Phase 1		\$533,000.00			
(various locations)	BID BOND				
	ADDENDA	0			
472-85260 (707094/620837/133116)					
		Engineer's Construction Estimate			
2016 OP3 CIP Concrete Street Repairs, Phase 1		\$533,000.00			
(various locations)	BID BOND				
	ADDENDA	0			
472-85260 (707094/620837/133116)					
CONTRACT AWARDED FOR ENGINEER'S ESTIMATE \$533,000.00					

CHECKED BY: JDREVIEWED BY: PD

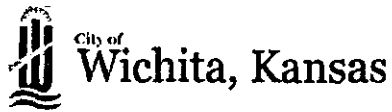
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This page summarizes vendor responses by the bid total. Awarded vendors will be notified of their respective purchase orders/contracts.

**Vendor Group Line****Solicitation:** FB640049**New Advanced Learning Library****Close Date/Time:** 4/15/2016 3:00 PM CST**Solicitation Type:** Formal Bid[Return to the Bid List](#)**Award Method:** Aggregate Cost**Department:** Public Works Fleet & Facilities**Responses:** 5

Vendors	Complete	Bid Total	City Comments
DONDLINGER & SONS CONSTRUCTION CO INC	Complete	\$19,331,278.00	Base Bid: \$20,296,000.00 Defer to 4-25-16 Public Works & Utilities Dept./Fleet & Facilities Div.
MARTIN K EBY CONSTRUCTION CO INC	Complete	\$20,251,007.70	Base Bid: \$21,340,000.00
WALZ HARMAN HUFFMAN CONST., INC.	Complete	\$20,319,009.50	Base Bid: \$21,325,000.00
THE LAW COMPANY INC	Complete	\$20,736,007.70	Base Bid: \$21,798,000.00
KEY CONSTRUCTION INC	Complete	\$21,396,008.00	Base Bid: \$22,580,000.00

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This page summarizes vendor responses by the bid total. Awarded vendors will be notified of their respective purchase orders/contracts.

**Vendor Group Line****Solicitation:** FB640073 **11,000 GVW Reg Cab and Chassis****Close Date/Time:** 4/15/2016 10:00 AM CST**Solicitation Type:** Formal Bid[Return to the Bid List](#)**Award Method:** Aggregate Cost**Department:** Public Works Fleet & Facilities**Responses:** 3

Vendors	Complete	Bid Total	City Comments
DON HATTAN CHEVROLET INC	Complete	\$109,280.00	Award 04/19/2016 Base Bid w/All Options Public Works & Utilities Depart/Fleet & Facilities Div
DAVIS MOORE AUTOMOTIVE INC	Complete	\$111,160.00	
DAVIS MOORE CHEVROLET INC	Complete	\$116,445.00	

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City of  
Wichita, Kansas**BID RESULTS**[Registration](#)[Solicitations](#)[Document Inquiry](#)[Login](#)[Help](#)

This page summarizes vendor bids by the extended cost for each commodity line on the solicitation.

**Vendor Group Line****Solicitation:** FB640073    **11,000 GVW Reg Cab and Chassis**    **Close Date/Time:** 4/15/2016 10:00 AM CST**Solicitation Type:** Formal Bid[Return to the Bid List](#)**Award Method:** Aggregate Cost**Department:** Public Works Fleet & Facilities**Responses:** 3**Go to:**  **Line 001** | BASE BID: New Unused Current Model Two Wheel Drive, 11,000 GVW Regular Cab and Chasis .  
Manufacturer: \_\_\_\_\_ Model: \_\_\_\_\_

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
DON HATTAN CHEVROLET INC	2	Each	\$25,500.0000	\$51,000.00	Complete	Chevrolet CC35903
DAVIS MOORE AUTOMOTIVE INC	2	Each	\$27,900.0000	\$55,800.00	Complete	Ram 3500
DAVIS MOORE CHEVROLET INC	2	Each	\$28,245.0000	\$56,490.00	Complete	Chevrolet CC35903

**Line 002** | OPTION 1: Extended Cab, Quad Cab, or Double Cab with a Standard Six Foot Minimum Bed

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
DAVIS MOORE CHEVROLET INC	1	Each	\$0.0000	\$0.00	Complete	N/A
DAVIS MOORE AUTOMOTIVE INC	1	Each	\$0.0000	\$0.00	Complete	N/A
DON HATTAN CHEVROLET INC	1	Each	\$0.0000	\$0.00	Complete	N/A

**Line 003** | OPTION 2: Extended Cab, Quad Cab, or Double Cab with a Standard Eight Foot Minimum Bed

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
DAVIS MOORE AUTOMOTIVE INC	1	Each	\$0.0000	\$0.00	Complete	N/A
DAVIS MOORE CHEVROLET INC	1	Each	\$2,755.0000	\$2,755.00	Complete	
DON HATTAN CHEVROLET INC	1	Each	\$3,500.0000	\$3,500.00	Complete	

**Line 004** | OPTION 3: Crew Cab with a Standard 5 1/2 Foot Minimum Bed

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
DAVIS MOORE AUTOMOTIVE INC	1	Each	\$1,946.0000	\$1,946.00	Complete	
DAVIS MOORE CHEVROLET INC	1	Each	\$3,677.0000	\$3,677.00	Complete	

DON HATTAN CHEVROLET INC	1	Each	\$4,600.0000	\$4,600.00	Complete
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**Line 005 | OPTION 4: Line X Lining, Under Rail, Including Tailgate**

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
DON HATTAN CHEVROLET INC	1	Each	\$475.0000	\$475.00	Complete	
DAVIS MOORE AUTOMOTIVE INC	1	Each	\$610.0000	\$610.00	Complete	
DAVIS MOORE CHEVROLET INC	1	Each	\$610.0000	\$610.00	Complete	

**Line 006 | OPTION 5: Directional Arrow Stick Model: Whelen LED Arrow Board Model TACF-85 with 35 Foot Cord (Placement Will BE Determined at Time of Build).**

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
DAVIS MOORE CHEVROLET INC	1	Each	\$1,407.0000	\$1,407.00	Complete	
DAVIS MOORE AUTOMOTIVE INC	1	Each	\$1,407.0000	\$1,407.00	Complete	
DON HATTAN CHEVROLET INC	1	Each	\$1,450.0000	\$1,450.00	Complete	

**Line 007 | OPTION 6: Headache Rack, RKI Model WG 10 or Approved Equal**

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
DAVIS MOORE AUTOMOTIVE INC	1	Each	\$658.0000	\$658.00	Complete	
DAVIS MOORE CHEVROLET INC	1	Each	\$658.0000	\$658.00	Complete	
DON HATTAN CHEVROLET INC	1	Each	\$700.0000	\$700.00	Complete	

**Line 008 | OPTION 7: LED Hideaway Strobes in Front Headlights Housing and Rear Tail Light Housing. Color to be Determined at Build. Contact Mike Nordick at 316-268-4040.**

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
DAVIS MOORE CHEVROLET INC	1	Each	\$1,310.0000	\$1,310.00	Complete	
DAVIS MOORE AUTOMOTIVE INC	1	Each	\$1,310.0000	\$1,310.00	Complete	
DON HATTAN CHEVROLET INC	1	Each	\$1,350.0000	\$1,350.00	Complete	

**Line 009 | OPTION 8: Four Wheel Drive with Electronic Touch Control**

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
DAVIS MOORE AUTOMOTIVE INC	1	Each	\$1,867.0000	\$1,867.00	Complete	
DAVIS MOORE CHEVROLET INC	1	Each	\$2,265.0000	\$2,265.00	Complete	

DON HATTAN CHEVROLET INC	1	Each	\$2,500.0000	\$2,500.00	Complete
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**Line 010** | OPTION 9: Fiberglass Topper with Lockable Swing Up Side and Rear Windows Painted to Match Truck (Colors May Vary). Windows Shall be Glass

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
DAVIS MOORE CHEVROLET INC	1	Each	\$1,976.0000	\$1,976.00	Complete.	
DAVIS MOORE AUTOMOTIVE INC	1	Each	\$1,976.0000	\$1,976.00	Complete	
DON HATTAN CHEVROLET INC	1	Each	\$2,050.0000	\$2,050.00	Complete	

**Line 011** | OPTION 10: Whelen Model JE2AAAA Light Bar, Overall Length to be 56.25". Light Bar Shall Include (4) CON3 LED Strobes on the Front with (2) Alley Lights and (2) Take Down Lights and a TACTACD1 Controlier

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
DAVIS MOORE AUTOMOTIVE INC	1	Each	\$2,638.0000	\$2,638.00	Complete	
DAVIS MOORE CHEVROLET INC	1	Each	\$2,638.0000	\$2,638.00	Complete	
DON HATTAN CHEVROLET INC	1	Each	\$2,700.0000	\$2,700.00	Complete	

**Line 012** | OPTION 11: Aluminum Tread Plate Standard Saddle Box with Lockable Lid

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
DAVIS MOORE CHEVROLET INC	1	Each	\$748.0000	\$748.00	Complete	
DAVIS MOORE AUTOMOTIVE INC	1	Each	\$748.0000	\$748.00	Complete	
DON HATTAN CHEVROLET INC	1	Each	\$800.0000	\$800.00	Complete	

**Line 013** | OPTION 12: Full Size Bed Slide Tray with 12" Removable Sides and End

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
DAVIS MOORE AUTOMOTIVE INC	1	Each	\$1,264.0000	\$1,264.00	Complete	
DAVIS MOORE CHEVROLET INC	1	Each	\$1,264.0000	\$1,264.00	Complete	
DON HATTAN CHEVROLET INC	1	Each	\$1,300.0000	\$1,300.00	Complete	

**Line 014** | OPTION 13: Whelen SX8BBRR 48.5" LFL Liberty Series Light Bar Installed on Cab of Truck

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
DAVIS MOORE CHEVROLET INC	1	Each	\$4,381.0000	\$4,381.00	Complete	
DAVIS MOORE AUTOMOTIVE INC	1	Each	\$4,381.0000	\$4,381.00	Complete	



DON HATTAN CHEVROLET INC	1	Each	\$4,500.0000	\$4,500.00	Complete	
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**Line 015 | OPTION 14: Other Factory Standard Colors**

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
DON HATTAN CHEVROLET INC	1	Each	\$0.0000	\$0.00	Complete	
DAVIS MOORE AUTOMOTIVE INC	1	Each	\$0.0000	\$0.00	Complete	
DAVIS MOORE CHEVROLET INC	1	Each	\$0.0000	\$0.00	Complete	N/C

**Line 016 | OPTION 15: Bucket Seats**

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
DON HATTAN CHEVROLET INC	1	Each	\$0.0000	\$0.00	Complete	N/A
DAVIS MOORE AUTOMOTIVE INC	1	Each	\$1,824.0000	\$1,824.00	Complete	
DAVIS MOORE CHEVROLET INC	1	Each	\$4,550.0000	\$4,550.00	Complete	

**Line 017 | OPTION 16: 6.0L Minimum Engine with Active Fuel Management**

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
DON HATTAN CHEVROLET INC	1	Each	\$0.0000	\$0.00	Complete	std
DAVIS MOORE CHEVROLET INC	1	Each	\$0.0000	\$0.00	Complete	N/C
DAVIS MOORE AUTOMOTIVE INC	1	Each	\$1,186.0000	\$1,186.00	Complete	

**Line 018 | OPTION 17: Factory Standard Red**

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
DAVIS MOORE CHEVROLET INC	1	Each	\$0.0000	\$0.00	Complete	N/C
DAVIS MOORE AUTOMOTIVE INC	1	Each	\$0.0000	\$0.00	Complete	no charge
DON HATTAN CHEVROLET INC	1	Each	\$0.0000	\$0.00	Complete	std

**Line 019 | OPTION 18: Lockable Bed Cap**

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
DAVIS MOORE AUTOMOTIVE INC	1	Each	\$1,410.0000	\$1,410.00	Complete	
DAVIS MOORE CHEVROLET INC	1	Each	\$1,410.0000	\$1,410.00	Complete	

DON HATTAN CHEVROLET INC	1	Each	\$1,450.0000	\$1,450.00	Complete	
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**Line 020** | OPTION 19: 1,500 LB Capacity Tommy Lift Gate

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
DAVIS MOORE CHEVROLET INC	1	Each	\$4,220.0000	\$4,220.00	Complete	
DAVIS MOORE AUTOMOTIVE INC	1	Each	\$4,220.0000	\$4,220.00	Complete	
DON HATTAN CHEVROLET INC	1	Each	\$4,300.0000	\$4,300.00	Complete	

**Line 021** | OPTION 20: Topper Knapheide Model KKL83B or Approved Equal, Painted to Match Chassis

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
DAVIS MOORE AUTOMOTIVE INC	1	Each	\$4,676.0000	\$4,676.00	Complete	
DAVIS MOORE CHEVROLET INC	1	Each	\$4,676.0000	\$4,676.00	Complete	
DON HATTAN CHEVROLET INC	1	Each	\$4,750.0000	\$4,750.00	Complete	

**Line 022** | OPTION 21: Front Mounted Brush Guards Westin Model HDX or Approved Equal, Black

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
DAVIS MOORE CHEVROLET INC	1	Each	\$874.0000	\$874.00	Complete	
DAVIS MOORE AUTOMOTIVE INC	1	Each	\$874.0000	\$874.00	Complete	
DON HATTAN CHEVROLET INC	1	Each	\$925.0000	\$925.00	Complete	

**Line 023** | OPTION 22: Flood Lights Mounted on Ends of Headache Rack Manually Operated 200,000 Candle Watt Minimum

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
DAVIS MOORE AUTOMOTIVE INC	1	Each	\$843.0000	\$843.00	Complete	
DAVIS MOORE CHEVROLET INC	1	Each	\$843.0000	\$843.00	Complete	
DON HATTAN CHEVROLET INC	1	Each	\$900.0000	\$900.00	Complete	

**Line 024** | OPTION 23: 6" Wide Chrome Westin Oval Tubular Nerf Bars or Approved Equal

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
DAVIS MOORE CHEVROLET INC	1	Each	\$746.0000	\$746.00	Complete	
DAVIS MOORE AUTOMOTIVE INC	1	Each	\$746.0000	\$746.00	Complete	

DON HATTAN CHEVROLET INC	1	Each	\$800.0000	\$800.00	Complete
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**Line 025 | OPTION 24: Utility Body. See Specifications**

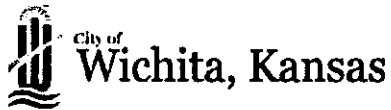
Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
DAVIS MOORE AUTOMOTIVE INC	1	Each	\$11,384.0000	\$11,384.00	Complete	
DAVIS MOORE CHEVROLET INC	1	Each	\$11,384.0000	\$11,384.00	Complete	
DON HATTAN CHEVROLET INC	1	Each	\$11,580.0000	\$11,580.00	Complete	

**Line 026 | OPTION 25: 6.6 Minimum Turbo Charged Diesel Engine**

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
DAVIS MOORE CHEVROLET INC	1	Each	\$7,563.0000	\$7,563.00	Complete	
DON HATTAN CHEVROLET INC	1	Each	\$7,650.0000	\$7,650.00	Complete	
DAVIS MOORE AUTOMOTIVE INC	1	Each	\$9,392.0000	\$9,392.00	Complete	

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This page summarizes vendor responses by the bid total. Awarded vendors will be notified of their respective purchase orders/contracts.

**Vendor Group Line****Solicitation:** FB640011**Impact Rock Crusher****Close Date/Time:** 2/19/2016 10:00 AM CST**Solicitation Type:** Formal Bid[Return to the Bid List](#)**Award Method:** Aggregate Cost**Department:** Public Works Fleet & Facilities**Responses:** 4

Vendors	Complete	Bid Total	City Comments
BERRY TRACTOR & EQUIPMENT CO	Complete	\$614,079.00	Does not meet specification
G W VAN KEPPEL	Complete	\$656,930.00	Does not meet specification
MURPHY TRACTOR & EQUIPMENT CO INC	Complete	\$766,257.00	Award 04/19/2016 Base Bid w/Option 1 & 2 Public Works & Utilities Depart/Fleet & Facilities Div
VICTOR L PHILLIPS COMPANY	In- Complete	\$0.00	

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City of  
**Wichita, Kansas**

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Vendor Group Line

Solicitation: FB640011

Impact Rock Crusher

Close Date/Time: 2/19/2016 10:00 AM CST

Solicitation Type: Formal Bid

[Return to the Bid List](#)

Award Method: Aggregate Cost

Department: Public Works Fleet & Facilities

Responses: 4

Go to:

Line 001 | New Unused Current Production Model Impact Rock Crusher

Manufacturer: \_\_\_\_\_ Model: \_\_\_\_\_ Year: \_\_\_\_\_

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
BERRY TRACTOR & EQUIPMENT CO	1	Each	\$648,579.0000	\$648,579.00	Complete	Screen Machine 4043T Spyder 514TS 2016 combined price. Alt Bid Screen Machine 4043T 2016 total 399,500
G W VAN KEPPEL	1	Each	\$683,025.0000	\$683,025.00	Complete	Astec KPI JCI FT4250CC 2016 Alt Bid KPI JCI GT440CC 2016 total 510,859
MURPHY TRACTOR & EQUIPMENT CO INC	1	Each	\$800,000.0000	\$800,000.00	Complete	Kleeman MR1102 S1 2015
VICTOR L PHILLIPS COMPANY					No Bid.	

Line 002 | OPTION 1: 3 Year/ 3,000 Hour Additional Warranty on Power Train to Include Parts and Labor in Addition to Factory Standard Warranty for a Total Warranty Period of No Less Than 4 Years/ 4,000 Hours.

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
BERRY TRACTOR & EQUIPMENT CO	1	Each	\$0.0000	\$0.00	Complete	Included
MURPHY TRACTOR & EQUIPMENT CO INC	1	Each	\$11,257.0000	\$11,257.00	Complete	
G W VAN KEPPEL	1	Each	\$23,905.0000	\$23,905.00	Complete	
VICTOR L PHILLIPS COMPANY					No Bid.	

Line 003 | OPTION 2: Trade-in Allowance. Lump Sum Deduct from Total Amount. 1998 Pioneer 4043 Impact Crusher with 1,239 Hours

Vendors	QTY	UOM	Price	Extended Cost	Complete	Comments
G W VAN KEPPEL	1	Lump Sum	(\$50,000.0000)	(\$50,000.00)	Complete	
MURPHY TRACTOR & EQUIPMENT CO INC	1	Lump Sum	(\$45,000.0000)	(\$45,000.00)	Complete	
	1		(\$34,500.0000)	(\$34,500.00)	Complete	

**No Bid.**

POWERED BY  
**COGSDALE**

**PRELIMINARY ESTIMATES  
FOR CITY COUNCIL APRIL 19, 2016**

- a. 2016 Sanitary Sewer Rehabilitation Phase B (CIPP) (north of Pawnee, east of Hoover) (468-85085/620761/665005) Traffic to be maintained during construction using flagpersons and barricades. (District I,II,III,IV,VI) - \$444,000.00
- b. SWS #706 Stormwater Pump Station 12 Outfall Improvements in Chadsworth 2nd Addition (City and County) (468-85107/133117/) Traffic to be maintained during construction using flagpersons and barricades. (District V) - \$182,352.00
- c. 2016 Sanitary Sewer Reconstruction Phase 4 (north of 31st Street South, east of West Street) (468-85104/620842/666005) Traffic to be maintained during construction using flagpersons and barricades. (District III,IV,VI) - \$275,000.00
- d. Maize Road & Silver Fox Street Traffic Signals (Maize Road and Silver Fox Street) (472-84822/766241/490259) Traffic to be maintained during construction using flagpersons and barricades. (District V) - \$221,000.00
- e. Lateral 550, Southwest Interceptor Sewer to serve Pearl Beach Addition (south of 29th Street North, east of Hoover) (468-85087/744411/480103) Does not affect existing traffic. (District V) - \$746,720.00

**PRELIMINARY ESTIMATE of the cost of:**

2016 Sanitary Sewer Rehabilitation Phase B (CIPP)  
(north of Pawnee, east of Hoover)

All work done and all materials furnished to be in accordance with plans and specifications  
on file in the office of the City Engineer.

**LUMP SUM BID ITEMS**

1	Pipe, Cured-in-Place, 8" (Site 1)	1,101	If
2	Pipe, Cured-in-Place, 8" (Site 2)	1,099	If
3	Pipe, Cured-in-Place, 8" (Site 3)	1,663	If
4	Pipe, Cured-in-Place, 8" (Site 4)	1,148	If
5	Pipe, Cured-in-Place, 8" (Site 5)	1,622	If
6	Pipe, Cured-in-Place, 8" (Site 6)	159	If
7	Pipe, Cured-in-Place, 8" (Site 7)	597	If
8	Pipe, Cured-in-Place, 8" (Site 8)	329	If
9	Pipe, Cured-in-Place, 8" (Site 9)	673	If
10	Pipe, Cured-in-Place, 8" (Site 10)	914	If
11	Pipe, Cured-in-Place, 8" (Site 11)	593	If
12	Pipe, Cured-in-Place, 8" (Site 12)	1,182	If
13	Pipe, Cured-in-Place, 8" (Site 13)	362	If
14	Pipe, Cured-in-Place, 8" (Site 14)	332	If
15	Pipe, Cured-in-Place, 8" (Site 15)	365	If
16	Pipe, Cured-in-Place, 8" (Site 16)	302	If
17	Pipe, Cured-in-Place, 8" (Site 17)	1,235	If
18	Pipe, Cured-in-Place, 8" (Site 18)	612	If
19	Pipe, Cured-in-Place, 8" (Site 19)	1,105	If
20	Site Preparation	1	LS
21	Site Restoration	1	LS

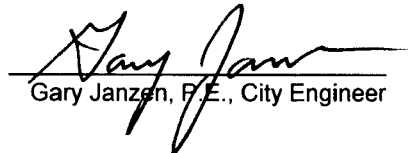
**Construction Subtotal**

Engineering & Inspection  
Administration  
Publication

**Total Estimated Cost****\$444,000.00**

CITY OF WICHITA)  
STATE OF KANSAS) SS

I do solemnly swear that the above amount is correct, reasonable and just.

  
Gary Janzen, P.E., City Engineer

Sworn to and subscribed before me this \_\_\_\_\_  
(DATE)

\_\_\_\_\_  
City Clerk

665005 (620761) 468-85085

Page \_\_\_\_\_

EXHIBIT \_\_\_\_\_



**PRELIMINARY ESTIMATE of the cost of:**

SWS #706 Stormwater Pump Station 12 Outfall Improvements  
Chadsworth 2nd Addition

All work done and all materials furnished to be in accordance with plans and specifications  
on file in the office of the City Engineer.

**LUMP SUM BID ITEMS**

1	Silt Fence	1	LS
2	Tree Protection Fence	1	LS
3	Mobilization	1	LS
4	Site Restoration	1	LS
5	Project Seeding	1	LS

**MEASURED QUANTITY BID ITEMS**

6	Existing Retaining Wall Removal	125	lf
7	Sidewalk Removal	130	sf
8	Trash, Rip-Rap, and Rubble Removal	268	sf
9	Stabilized Construction Entrance	1	ea
10	SWS Removal	20	lf
11	Cold Rolled PAZ-4460 Weathered Steel Sh	160	lf
12	Sheet Pile Cap	155	lf
13	Headwall	14	lf
14	Headwall Extension	18.5	lf
15	Light Stone Rip-Rap	65	sf
16	Handrail	55	lf
17	Cleanouts	2	ea
18	6" SWS	25	lf
19	Sidewalk	645	sf
20	Guardrail Foundation	22	lf

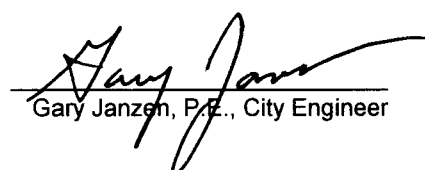
**Construction Subtotal**

Design Fee  
Engineering & Inspection  
Administration  
Publication  
Water Dept

**Total Estimated Cost**\$182,352.00

CITY OF WICHITA)  
STATE OF KANSAS) SS

I do solemnly swear that the above amount is correct, reasonable and just.

  
Gary Janzen, P.E., City Engineer

Sworn to and subscribed before me this \_\_\_\_\_  
(DATE)

\_\_\_\_\_  
City Clerk

(133117) 468-85107  
Page \_\_\_\_\_

EXHIBIT

**PRELIMINARY ESTIMATE of the cost of:**

2016 Sanitary Sewer Reconstruction Phase 4

(north of 31st Street South, east of West Street)

All work done and all materials furnished to be in accordance with plans and specifications on file in the office of the City Engineer.

**LUMP SUM BID ITEMS**

1	Site Clearing	1	LS
2	Site Restoration	1	LS
3	Service Conn. Repl (2632 S Jewett)	1	LS
4	Service Conn. Repl (2628 S Jewett)	1	LS
5	Service Conn. Repl (2676 S Jewett)	1	LS
6	Service Conn. Repl (2678 S Jewett)	1	LS

**MEASURED QUANTITY BID ITEMS**

7	Pipe, SS 8"	2,359	lf
8	Pipe Removed (6" or 8")	2,359	lf
9	MH, Removed	6	ea
10	MH, Shallow SS (4')	3	ea
11	MH, Standard SS (4')	4	ea
12	MH Frame & Cover, Replaced	2	ea
13	MH Bench & Invert, Removed and Repl	5	ea
14	Conc Sidewalk Rem & Repl (Site 5)	20	lf
15	Conc Pvmnt Rem & Repl (may incl gutter)	44	lf
16	Conc Appr Rem & Repl (may incl curb)	14	lf
17	Conc Appr Rem & Repl (may incl gutter)	25	lf
18	Fill, Flowable	83	lf
19	Service Reconnection, Sewer (4")	60	ea
20	Service Reconnection, Sewer (6")	1	ea
21	BMP, Construction Entrance	1	ea
22	BMP, Silt Fence	40	lf
23	BMP, Erosion Control Mat	40	sy
24	BMP, Back of Curb Protection	20	lf
25	BMP, Curb Inlet Protection	1	ea

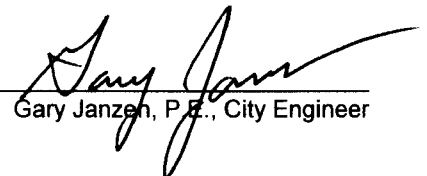
**Construction Subtotal**

Engineering & Inspection  
Administration  
Publication

**Total Estimated Cost****\$275,000.00**

CITY OF WICHITA)  
STATE OF KANSAS) SS

I do solemnly swear that the above amount is correct, reasonable and just.

  
Gary Janzen, P.E., City Engineer

Sworn to and subscribed before me this \_\_\_\_\_  
(DATE)

\_\_\_\_\_  
City Clerk

666005 (620842) 468-85104

Page \_\_\_\_\_

EXHIBIT \_\_\_\_\_

**PRELIMINARY ESTIMATE of the cost of:**  
Maize Road & Silver Fox Street Traffic Signals  
(Maize Road & Silver Fox Street)

All work done and all materials furnished to be in accordance with plans and specifications on file in the office of the City Engineer.

**LUMP SUM BID ITEMS**

1	Site Clearing	1	LS
2	Site Restoration	1	LS
3	Pavement Marking	1	LS
4	Signing	1	LS
5	Traffic Control	1	LS
6	Traffic Signalization	1	LS
7	BMP Erosion Control	1	LS
8	Seeding/Mulching/Fertilizing	1	LS
9	Removing of Existing Markings (Grinding)	1	LS

**MEASURED QUANTITY BID ITEMS**

10	Concrete Sidewalk 4"	100	sf
11	Wheelchair Ramp w/ Detectable Warnings	2	ea

**Construction Subtotal**

Engineering & Inspection (766241)  
Administration (766241)  
Publication (766241)

**Total Estimated Cost**

\$221,000.00

CITY OF WICHITA)  
STATE OF KANSAS) SS

I do solemnly swear that the above amount is correct, reasonable and just.

  
Gary Janzen, P.E., City Engineer

Sworn to and subscribed before me this \_\_\_\_\_  
(DATE)

\_\_\_\_\_  
City Clerk

490259 (766241) 472-84822

Page \_\_\_\_\_

EXHIBIT \_\_\_\_\_

**PRELIMINARY ESTIMATE of the cost of:**

Lateral 550, Southwest Interceptor Sewer to serve Pearl Beach Addition  
(south of 29th Street North, east of Hoover)

All work done and all materials furnished to be in accordance with plans and specifications  
on file in the office of the City Engineer.

**LUMP SUM BID ITEMS**

1 Seeding	1	LS
2 Site Clearing	1	LS
3 Site Restoration	1	LS
4 Dewatering	1	LS

**MEASURED QUANTITY BID ITEMS**

5 Pipe, SS 8"	2,243	lf
6 Pipe, SS 10"	3,501	lf
7 Air Testing, SS Pipe	5,744	lf
8 Pipe Stub, 4"	2	ea
9 Pipe Stub, 10"	3	ea
10 MH, Standard SS (4')	16	ea
11 MH, Shallow SS (4')	3	ea
12 MH, Standard SS (5')	5	ea
13 MH, Joint Wrap	122	lf
14 Fill, Sand (Flushed & Vibrated)	3,696	lf
15 Riser Assembly 4", Vertical	38	ea
16 Riser Assembly 4", Manhole Stub	7	ea
17 BMP, Construction Entrance	1	ea
18 BMP, Silt Fence	1,285	lf

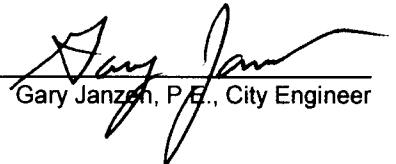
**Construction Subtotal**

Design Fee  
Engineering & Inspection  
Administration  
Publication  
Contingency

**Total Estimated Cost**\$746,720.00

CITY OF WICHITA)  
STATE OF KANSAS) SS

I do solemnly swear that the above amount is correct, reasonable and just.

  
Gary Janzen, P.E., City Engineer

Sworn to and subscribed before me this \_\_\_\_\_  
(DATE)

\_\_\_\_\_  
City Clerk

480103 (744411) 468-85087  
Page \_\_\_\_\_

EXHIBIT

City of Wichita  
City Council Meeting  
April 19, 2016

**TO:** Mayor and City Council

**SUBJECT:** Community Events – Prairie Fire Spring Half Marathon Set-Up (District I)

**INITIATED BY:** Division of Arts & Cultural Services

**AGENDA:** Consent

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**Recommendation:** Approve the request for temporary street closure.

**Background:** In accordance with the Community Events procedure the event promoter Bob Hanson, Greater Wichita Area Sports Commission, is coordinating the Prairie Fire Spring Half Marathon with City of Wichita staff, subject to final approval by the City Council.

**Analysis:** The following street closure request has been submitted:

**Prairie Fire Spring Half Marathon Set-Up April 30, 2016 10:00 am through May 1, 2016 2:00 pm**

- Waterman Street, Wichita Street to Water Street

The event promoter will arrange to remove the barricades as necessary to allow emergency vehicle access during the entire designated time period. The barricades will be removed immediately upon completion of the event.

**Financial Consideration:** The event promoter is responsible for all costs associated with the special event.

**Legal Consideration:** This action complies with the ordinance on street closures for community events.

**Recommendation/Actions:** It is recommended that the City Council approve the request subject to: 1) Hiring of off-duty certified law enforcement officers as required; 2) Obtaining barricades to close the streets in accordance with requirements of the Police, Fire and Public Works and Utilities Departments; and 3) Securing Certificate of Liability Insurance on file with the Community Events Coordinator.

**City of Wichita  
City Council Meeting  
April 19, 2016**

**TO:** Mayor and City Council

**SUBJECT:** Community Events – Prairie Fire Spring Half Marathon (Districts I, IV and VI)

**INITIATED BY:** Division of Arts & Cultural Services

**AGENDA:** Consent

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**Recommendation:** Approve the request for temporary street closures.

**Background:** In accordance with the Community Events procedure the event promoter Bob Hanson, Greater Wichita Area Sports Commission, is coordinating the Prairie Fire Spring Half Marathon with City of Wichita staff, subject to final approval by the City Council.

**Analysis:** The following street closure request has been submitted:

**Prairie Fire Spring Half Marathon May 1, 2016 6:00 am – 1:00 pm**

- Wichita Street, Lewis Street to McLean Boulevard
- Maple Street, McLean Boulevard to Elizabeth Street
- Elizabeth Street, Maple to University Avenue
- University Avenue, Elizabeth Street to Hiram Avenue
- Hiram Avenue, University Avenue to St. Clair Street
- St. Clair Street, Hiram Avenue to entrance of Friends University Parking Lot
- Friends University Parking Lot, Maple Street to Elizabeth Street
- Elizabeth Street, Maple Street to Douglas Avenue
- Douglas Avenue, Elizabeth Street to Waco Street
- Waco Street, Douglas Avenue to Bike Path
- Bike Path, Douglas Avenue to Central Avenue
- Central Avenue, Stackman Drive to West Stackman Drive
- West Stackman Drive, Spaulding Avenue to West River Boulevard
- West River Boulevard, Murdock Street to Biting Avenue
- Biting Avenue, West River Boulevard to Oak Park Drive
- Oak Park Drive, Biting Avenue to Forrest Street
- Forrest Street, Oak Park Drive to 11<sup>th</sup> Street North
- 11<sup>th</sup> Street North, Stackman Drive to West Central Avenue
- 13<sup>th</sup> Street North, West Central Avenue to McLean Boulevard
- McLean Boulevard, Exploration Place parking lot to Lewis Street
- Lewis Street, McLean Boulevard to Wichita Street

The event promoter will arrange to remove the barricades as necessary to allow emergency vehicle access during the entire designated time period. The barricades will be removed immediately upon completion of the event.

**Financial Consideration:** The event promoter is responsible for all costs associated with the special event.

**Legal Consideration:** This action complies with the ordinance on street closures for community events.

**Recommendation/Actions:** It is recommended that the City Council approve the request subject to: 1) Hiring of off-duty certified law enforcement officers as required; 2) Obtaining barricades to close the streets in accordance with requirements of the Police, Fire and Public Works and Utilities Departments; and 3) Securing Certificate of Liability Insurance on file with the Community Events Coordinator.

**City of Wichita  
City Council Meeting  
April 19, 2016**

**TO:** Mayor and City Council

**SUBJECT:** Community Events – Prairie Fire Spring Half Marathon 5K (Districts I and IV)

**INITIATED BY:** Division of Arts & Cultural Services

**AGENDA:** Consent

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**Recommendation:** Approve the request for temporary street closures.

**Background:** In accordance with the Community Events procedure the event promoter Bob Hanson, Greater Wichita Area Sports Commission, is coordinating the Prairie Fire Spring Half Marathon 5K with City of Wichita staff, subject to final approval by the City Council.

**Analysis:** The following street closure request has been submitted:

**Prairie Fire Spring Half Marathon 5K May 1, 2016 6:00 am – 1:00 pm**

- Wichita Street, Lewis Street to McLean Boulevard
- McLean Boulevard, Lewis Street to Lincoln Street
- Lincoln Street, McLean Boulevard to Osage Street
- Osage Street, Lincoln Boulevard to Dayton Street
- Dayton Street, Osage Street to Sycamore Street
- Sycamore Street, Dayton Street to Texas Street
- Texas Street, Sycamore Street to Walnut Street
- Walnut Street, Texas Street to Douglas Avenue
- Douglas Avenue, Walnut Street to McLean Boulevard
- McLean Boulevard, Douglas Avenue to Lewis Street
- Lewis Street, McLean Boulevard to Wichita Street

The event promoter will arrange to remove the barricades as necessary to allow emergency vehicle access during the entire designated time period. The barricades will be removed immediately upon completion of the event.

**Financial Consideration:** The event promoter is responsible for all costs associated with special events.

**Legal Consideration:** This action complies with the ordinance on street closures for community events.

**Recommendation/Actions:** It is recommended that the City Council approve the request subject to: 1) Hiring of off-duty certified law enforcement officers as required; 2) Obtaining barricades to close the streets in accordance with requirements of the Police, Fire and Public Works and Utilities Departments; and 3) Securing Certificate of Liability Insurance on file with the Community Events Coordinator.



**City of Wichita  
City Council Meeting  
April 19, 2016**

**TO:** Mayor and City Council

**SUBJECT:** Community Events – Tour De Cure (District III)

**INITIATED BY:** Division of Arts & Cultural Services

**AGENDA:** Consent

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**Recommendation:** Approve the request for temporary street closures.

**Background:** In accordance with the Community Events procedure, the event promoter Amber Wagner, American Diabetes Association, is coordinating the Tour De Cure with City of Wichita staff, subject to final approval by the City Council.

**Analysis:** The following street closure request has been submitted:

**Tour De Cure April 30, 2016 11:00 am – 1:30 pm**

- South Oliver Street, East Colfax Street to East 31<sup>st</sup> Street South
- East 31<sup>st</sup> Street South, South Oliver Street to George Washington Boulevard South
- George Washington Boulevard, Salina Drive to The Kansas Aviation Museum

The promoter will arrange to remove the barricades as necessary to allow emergency vehicle access during the entire designated time period. The barricades will be removed immediately upon completion of the event.

**Financial Consideration:** The event promoter is responsible for all costs associated with the special event.

**Legal Consideration:** This action complies with the ordinance on street closures for community events.

**Recommendation/Actions:** It is recommended that the City Council approve the request subject to: 1) Hiring of off-duty certified law enforcement officers as required; 2) Obtaining barricades to close the streets in accordance with requirements of the Police, Fire and Public Works and Utilities Departments; and 3) Securing Certificate of Liability Insurance on file with the Community Events Coordinator.

City of Wichita  
City Council Meeting  
April 19, 2016

**TO:** Mayor and City Council

**SUBJECT:** Community Events – Heartspring’s 9th Annual Autism CARE Walk Set-Up (District I)

**INITIATED BY:** Division of Arts & Cultural Services

**AGENDA:** Consent

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**Recommendation:** Approve the request for temporary street closures.

**Background:** In accordance with the Community Events procedure, the event promoter Hannah Henning, Heartspring, is coordinating the Heartspring’s 9th Annual Autism CARE Walk with City of Wichita staff, subject to final approval by the City Council.

**Analysis:** The following street closure request has been submitted:

**Heartspring’s 9th Annual Autism CARE Walk Set-Up April 22, 2016 3:00 pm through April 23, 2016 12:00 pm**

- South Water Street, West Waterman Street to West Dewey Street
- WaterWalk Place, South Wichita Street to South Water Street

The promoter will arrange to remove the barricades as necessary to allow emergency vehicle access during the entire designated time period. The barricades will be removed immediately upon completion of the event.

**Financial Consideration:** The event promoter is responsible for all costs associated with the special event.

**Legal Consideration:** This action complies with the ordinance on street closures for community events.

**Recommendation/Actions:** It is recommended that the City Council approve the request subject to: 1) Hiring of off-duty certified law enforcement officers as required; 2) Obtaining barricades to close the streets in accordance with requirements of the Police, Fire and Public Works and Utilities Departments; and 3) Securing Certificate of Liability Insurance on file with the Community Events Coordinator.

City of Wichita  
City Council Meeting  
April 19, 2016

**TO:** Mayor and City Council

**SUBJECT:** Community Events – Friday Nights at the Fountains (District I)

**INITIATED BY:** Division of Arts & Cultural Services

**AGENDA:** Consent

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**Recommendation:** Approve the request for temporary street closures.

**Background:** In accordance with the Community Events procedure, the event promoter Kary Taylor, Wichita WaterWalk, is coordinating the Friday Nights at the Fountains event with City of Wichita staff, subject to final approval by the City Council.

**Analysis:** The following street closure request has been submitted:

**Friday Nights at the Fountains May 20, June 17 and July 16, 2016 10:00 am – 9:00 pm**

- South Water Street, Dewey Street to Waterman Street
- WaterWalk Place, South Water Street to Wichita Street

The event promoter will arrange to remove the barricades as necessary to allow emergency vehicle access during the entire designated time period. The barricades will be removed immediately upon completion of the event.

**Financial Consideration:** The event promoter is responsible for all costs associated with the special events.

**Legal Consideration:** This action complies with the ordinance on street closures for community events.

**Recommendation/Actions:** It is recommended that the City Council approve the request subject to: 1) Hiring off-duty certified law enforcement officers as required; 2) Obtaining barricades to close the streets in accordance with requirements of the Police, Fire and Public Works and Utilities Departments; and 3) Securing a Certificate of Liability Insurance on file with the Community Event Coordinator.

City of Wichita  
City Council Meeting  
April 19, 2016

**TO:** Mayor and City Council

**SUBJECT:** Community Events – Food Trucks at the Fountains (District I)

**INITIATED BY:** Division of Arts & Cultural Services

**AGENDA:** Consent

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**Recommendation:** Approve the request for temporary street closures.

**Background:** In accordance with the Community Events procedure, the event promoter Kary Taylor, Wichita WaterWalk, is coordinating the Food Trucks at the Fountains event with City of Wichita staff, subject to final approval by the City Council.

**Analysis:** The following street closure request has been submitted:

**Food Trucks at the Fountains May 22, June 26 and July 31, 2016 9:00 am – 3:00 pm**

- South Water Street, Dewey Street to Waterman Street
- WaterWalk Place, South Water Street to Wichita Street

The event promoter will arrange to remove the barricades as necessary to allow emergency vehicle access during the entire designated time period. The barricades will be removed immediately upon completion of the event.

**Financial Consideration:** The event promoter is responsible for all costs associated with the special events.

**Legal Consideration:** This action complies with the ordinance on street closures for community events.

**Recommendation/Actions:** It is recommended that the City Council approve the request subject to: 1) Hiring off-duty certified law enforcement officers as required; 2) Obtaining barricades to close the streets in accordance with requirements of the Police, Fire and Public Works and Utilities Departments; and 3) Securing a Certificate of Liability Insurance on file with the Community Event Coordinator.

City of Wichita  
City Council Meeting  
April 19, 2016

**TO:** Mayor and City Council

**SUBJECT:** Lead-Based Paint Hazard Control Grant Application (Districts I and VI)

**INITIATED BY:** Housing and Community Services Department

**AGENDA:** Consent

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**Recommendation:** Approve submission of the application for the Lead-Based Paint Hazard Control Grant and acceptance of funds if awarded, and authorize the necessary signatures.

**Background:** The U.S. Department of Housing and Urban Development, through the Office of Lead Hazard Control and Healthy Homes has issued a Notice of Funding Announcement (NOFA) for a Lead-Based Paint Hazard Control (LBPHC) Grant. The purpose of the LBPHC program is to help units of local government create and implement programs to make homes lead safe. Specifically, comprehensive programs are to be undertaken to identify and control lead-based paint hazards in eligible privately owned rental or owner-occupied housing.

**Analysis:** LBPHC Grant funds must be utilized to maximize the number of children under the age of six years protected from lead poisoning and the number of housing units where lead hazards are controlled. Grantees must also target lead hazard control efforts in housing units where children are at the greatest risk of lead poisoning, especially children currently residing in low-income and minority families, in order to reduce elevated blood lead levels (EBLL) in children under the age of six years.

Staff proposes to provide funding, if awarded, for housing rehabilitation projects to be completed within the 67214 zip code area. According to information provided by the Kansas Department of Health and Environment (KDHE), a total of 23 children under age six were found to have EBLL within the 67214 zip code area, during 2015. This represents 4.15% of the total population of children under age six, within the area.

**Financial Considerations:** The maximum potential grant award for first-time applicants is \$1,650,000 which includes optional Healthy Homes Supplemental Funds. Grantees are required to provide matching funds in the amount of 10% of the grant award. Community Development Block Grant (CDBG) funds may be utilized as a source of matching funds. The match obligation will also be addressed by combining LBPHC grant funding with funding from the Housing and Community Services Department's Home Improvement Program, in order to complete qualifying projects. No General Funds from the City budget are obligated by the application.

**Legal Considerations:** A grant agreement will be submitted for review and approval by the Law Department if the grant proposal is successful.

**Recommendation/Action:** It is recommended that the City Council approve submission of the application for the lead-Based Paint Hazard Control Grant and acceptance of funds if awarded, and authorize the necessary signatures.

**Attachments:** None.

City of Wichita  
City Council Meeting  
April 19, 2016

**TO:** Mayor and City Council

**SUBJECT:** Capital Improvement Project Design Agreements (Districts I, III, IV, V and VI)

**INITIATED BY:** Department of Public Works & Utilities

**AGENDA:** Consent

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**Recommendations:** Approve the design agreements and adopt the resolutions.

**Background:** On February 16, 2016, the Staff Screening and Selection Committee interviewed ten of the 12 consulting firms that responded to the City's request for proposals for five street and intersection projects and three water main replacement projects. Selections were made for all eight projects as listed below, along with the design concept fees.

- Tyler Road, Maple to Central: Professional Engineering Consultants (PEC) (\$33,200 Concept Design Fee)
  - Selection was based on PEC's knowledge of the project area including the flow of pedestrian and vehicular traffic, working relationship with USD 259, and approach to the project.
- Mt Vernon and Hillside Intersection: MKEC (\$30,000 Concept Design Fee)
  - Selection was based on MKEC's knowledge of the drainage systems in the project area, current work on a proposed lane reconfiguration project on Mt. Vernon from SE Boulevard to Woodlawn, and project approach.
- Downtown Improvements (2nd, Washington to Mead and 1<sup>st</sup> Street, Washington to Mead): TranSystems (\$75,000 Concept Design Fee)
  - Selection was based on TranSystems' knowledge of the project area including recent design of the 1<sup>st</sup> and 2<sup>nd</sup> Street bike lane projects, existing drainage issues, understanding of pedestrian concerns, and project team, which consists of an engineering firm, landscape architect, and artist.
- I-235 and West Street Interchange Signalization: WSP/Parsons Brinckerhoff (\$80,000 Concept Design Fee)
  - Selection was based on Parsons Brinckerhoff's knowledge of the area including a Kansas Department of Transportation (KDOT) proposed project to make improvements to I-235, north of West Street, knowledge of the I-235 and Seneca Interchange and project approach.
- 9<sup>th</sup> Street, I-135 to Hillside: Baughman (\$25,000 Concept Design Fee)
  - Selection was based on Baughman's knowledge of the area including the design of the Red Bud bike path which runs through the 9<sup>th</sup> Street and Hillside intersection, existing drainage infrastructure, and the number of similar projects that they have completed for the City of Wichita that have a planning component.
- Silverdale Water Main Replacement: MKEC (\$225,000 Final Design Fee)

- Selection was based on MKEC's knowledge of the project area including existing utility conflicts that will need to be worked around, the need to work around the existing large trees to minimize removal, and project approach.
- Rose Marie Water Main Replacement: Ruggles & Bohm (\$193,100 Final Design Fee)
  - Selection was based on Ruggles & Bohm's knowledge of the project area including right-of-way encroachment issues and existing utility conflicts that will need to be worked around, and project approach.
- Waterline on 47<sup>th</sup> Street, east of West Street and new Big Ditch Crossing at 47<sup>th</sup> Street or MacArthur : PEC (\$8,500 Concept Design Fee)
  - Selection was based on PEC's knowledge of the area including the existing waterline system, design of MacArthur Bridge, and project approach.

**Analysis:** All of the projects are currently planned to start design in 2016 and be constructed in 2016-2018 as proposed in the Adopted 2015-2024 Capital Improvement Program (CIP). These projects need to start design immediately to meet the schedules that are shown in the CIP. The projects must be developed to the design concept approval phase before the utility companies can start design work and relocate utilities.

The proposed initial agreements between the City and the consultants provide for the development of design concepts for the paving projects, signalization project, and the new waterline crossing the Big Ditch, and final design for the water main replacement projects. The paving projects, signalization project, and Big Ditch waterline project will be returned to the City Council at a later date for approval of design concepts and final design agreements.

**Financial Considerations:** The requested budget for preliminary design and staff oversight is listed below for each project unless the budgets were previously approved by City Council. The funding source for all of the paving and signalization projects is GO bonds. The funding source for the waterline projects is Water Utility revenue bonds.

<b>Project</b>	<b>Funding Source</b>	<b>Requested Funding</b>
Tyler Road, Maple to Central	General Obligation	\$43,000
Mt. Vernon and Hillside Intersection	General Obligation	\$40,000
*Downtown Improvements	General Obligation	\$85,000
**I-235 and West Street Signalization	General Obligation	Previously Approved
9 <sup>th</sup> Street, I-235 to Hillside	General Obligation	\$35,000
*** Silverdale Water Main Replacement	Water Utility	Previously Approved
*** Rose Marie Water Main Replacement	Water Utility	Previously Approved
**** Waterline across the Big Ditch	Water Utility	Previously Approved
Total of Funding Requested		<b>\$203,000</b>

\*Funding from two projects in the CIP: 2<sup>nd</sup> Street, Main to Washington and Old Town Improvements

\*\*Funding will come from the 2016 Traffic Signalization Budget approved on November 10, 2015

\*\*\*Funding will come from the 2016 Water Main Replacement (W-67) fund that was approved on November 17, 2015

\*\*\*\*Funding will come from the 2015 Redundant Feed and Dead End Eliminate funding approved on November 17, 2015

**Legal Considerations:** The resolutions and agreements have been reviewed and approved as to form by the Law Department.

**Recommendation/Actions:** It is recommended that the City Council approve the design concept agreements for the paving projects, signalization project, and the new waterline crossing of the Big Ditch,

approve the final design agreements for the water main replacement projects, adopt the resolutions, and authorize the necessary signatures.

**Attachments:** Maps, resolutions, design concept agreements, and budget sheets.



# Project Request

☒ CIP ☐ Non-CIP

CIP YEAR:

2016

CIP #:

☐ NEIGHBORHOOD IMPROVEMENT

DEPARTMENT: 13 Public Works & Utilities

DIVISION: Engineering

RESOLUTION/ORDINANCE #:

ENGINEERING REFERENCE #: 472-85282

FUND: 400 Street Improvements

SUBFUND: 405 Arterial Paving

COUNCIL DISTRICT: 26 Council Districts 1, 3, 4, 5, 6

DATE COUNCIL APPROVED: 04/16

REQUEST DATE:

PROJECT #: 490386

PROJECT TITLE: TYLER, MAPLE TO CENTRAL 472-85282

PROJECT DETAIL #: 01

PROJECT DETAIL DESCRIPTION: TYLER, MAPLE TO CENTRAL 472-85282

OCA #: 766363

OCA TITLE: TYLER, MAPLE TO CENTRAL 472-85282

PERSON COMPLETING FORM: Jennifer Peterson

PHONE #: 268-4548

PROJECT MANAGER: Shawn Mellies

PHONE #: 268-4632

☒ NEW BUDGET ☐ REVISED BUDGET

## REVENUE

## EXPENSE

Object Level 3	Budget
9720 G.O. Bonds	\$43,000.00
	\$0.00
	\$0.00
	\$0.00
	\$0.00
	\$0.00
	\$0.00
	\$0.00

Object Level 3	Budget
2999 Contractuals	\$43,000.00
	\$0.00
	\$0.00
	\$0.00
	\$0.00
	\$0.00
	\$0.00
	\$0.00

REVENUE TOTAL: \$43,000.00

EXPENSE TOTAL: \$43,000.00

NOTES:

## SIGNATURES REQUIRED

Print Form

DIVISION HEAD:

DATE: 03/17/16

DEPARTMENT HEAD:

DATE: 4/8/16

BUDGET OFFICER:

DATE: 3/17/16

CITY MANAGER:

DATE:

# Project Request

☒ CIP ☐ Non-CIP

CIP YEAR: 2016

CIP #:

☐ NEIGHBORHOOD IMPROVEMENT

DEPARTMENT: 13 Public Works & Utilities

DIVISION: Engineering

RESOLUTION/ORDINANCE #:

ENGINEERING REFERENCE #: 472-85284

FUND: 400 Street Improvements

SUBFUND: 405 Arterial Paving

COUNCIL DISTRICT: 26 Council Districts 1, 2, 3, 5, 6

DATE COUNCIL APPROVED: 04-19-16

REQUEST DATE:

PROJECT #: 490388

PROJECT TITLE: 2ND, WASHINGTON TO MAIN 472-85284

PROJECT DETAIL #: 01

PROJECT DETAIL DESCRIPTION: 2ND, WASHINGTON TO MAIN 472-85284

OCA #: 766365

OCA TITLE: 2ND, WASHINGTON TO MAIN 472-85284

PERSON COMPLETING FORM: Jennifer Peterson

PHONE #: 268-4548

PROJECT MANAGER: Shawn Mellies

PHONE #: 268-4632

☒ NEW BUDGET ☐ REVISED BUDGET

## REVENUE

## EXPENSE

Object Level 3	Budget
9720 G.O. Bonds	\$85,000.00
	\$0.00
	\$0.00
	\$0.00
	\$0.00
	\$0.00
	\$0.00
	\$0.00

Object Level 3	Budget
2999 Contractuals	\$85,000.00
	\$0.00
	\$0.00
	\$0.00
	\$0.00
	\$0.00
	\$0.00
	\$0.00

REVENUE TOTAL: \$85,000.00

EXPENSE TOTAL: \$85,000.00

NOTES: 2ND, WASHINGTON TO MAIN WILL  
HAVE THE SAME PPN AS 1ST,  
WASHINGTON TO MAIN 490388

## SIGNATURES REQUIRED

Print Form

DIVISION HEAD: 

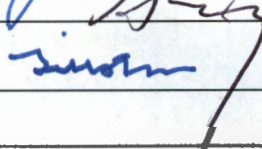
DATE: 03/17/16

DEPARTMENT HEAD: 

DATE: 4/8/16

BUDGET OFFICER: 

DATE: 3/17/16

CITY MANAGER: 

DATE:

# Project Request

☒ CIP ☐ Non-CIP

CIP YEAR:

2016

CIP #:

☐ NEIGHBORHOOD IMPROVEMENT

DEPARTMENT: 13 Public Works & Utilities

DIVISION: Engineering

RESOLUTION/ORDINANCE #:

ENGINEERING REFERENCE #: 472-85286

FUND: 400 Street Improvements

SUBFUND: 405 Arterial Paving

COUNCIL DISTRICT: 26 Council Districts 1, 3, 4, 5, 6

DATE COUNCIL APPROVED: 04-19-16

REQUEST DATE:

PROJECT #: 490387

PROJECT TITLE: MT. VERNON & HILLSIDE INTERSECTION 472-85286

PROJECT DETAIL #: 01

PROJECT DETAIL DESCRIPTION: MT. VERNON & HILLSIDE INTERSECTION 472-85286

OCA #: 766364

OCA TITLE: MT. VERNON & HILLSIDE INTERSECTION 472-85286

PERSON COMPLETING FORM: Jennifer Peterson

PHONE #: 268-4548

PROJECT MANAGER: Shawn Mellies

PHONE #: 268-4632

☒ NEW BUDGET ☐ REVISED BUDGET

## REVENUE

## EXPENSE

Object Level 3	Budget
9720 G.O. Bonds	\$40,000.00
	\$0.00
	\$0.00
	\$0.00
	\$0.00
	\$0.00
	\$0.00

Object Level 3	Budget
2999 Contractuals	\$40,000.00
	\$0.00
	\$0.00
	\$0.00
	\$0.00
	\$0.00
	\$0.00

REVENUE TOTAL: \$40,000.00

EXPENSE TOTAL: \$40,000.00

NOTES:

## SIGNATURES REQUIRED

DIVISION HEAD: 

DEPARTMENT HEAD: 

BUDGET OFFICER: 

CITY MANAGER:

Print Form

DATE: 03/17/16

DATE: 4/8/16

DATE: 3/17/16

DATE:

☒ CIP    ☐ Non-CIP

CIP #:

**RESOLUTION NO. \_\_\_\_ - \_\_\_\_**

**A RESOLUTION AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE CITY OF WICHITA, KANSAS TO PAY THE COSTS OF CERTAIN PUBLIC IMPROVEMENTS IN THE CITY.**

---

**WHEREAS**, the City of Wichita, Kansas (the "City") is a municipal corporation, duly created, organized and existing under the Constitution and laws of the State; and

**WHEREAS**, the Governing Body is authorized, pursuant to K.S.A. 13-1024c, as amended by Charter Ordinance No. 156 of the City (the "Act") to issue general obligation bonds of the City without an election for the purpose of paying for the construction, purchase or improvement of any public improvement, including the land necessary therefore, and for the purpose of rebuilding, adding to or extending the same as the necessities of the City may require and for the purpose of paying for certain personal property therefore; and

**WHEREAS**, the Governing Body hereby finds and determines that it is necessary and advisable to make certain public improvements described as follows:

**Preliminary design of improvements and staff oversight to Tyler, from Maple to Central, as necessary for a major traffic facility (472-85282).**

(the "Project") and to provide for the payment of all or a portion of the costs thereof by the issuance of general obligation bonds of the City pursuant to the Act.

**BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AS FOLLOWS:**

**Section 1. Project Authorization.** It is hereby authorized ordered and directed that the Project be acquired and/or constructed at an estimated cost of \$43,000 in accordance with the plans and specifications therefor prepared under the direction of the City Engineer and approved by the Governing Body; said plans and specifications to be placed on file in the office of the City Engineer.

**Section 2. Project Financing.** All or portion of the costs of the Project, interest on financing and administrative and financing costs shall be financed with the proceeds of general obligation bonds of the City (the "Bonds"). The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of this Resolution, pursuant to Treasury Regulation § 1.150-2.

**Section 3. Effective Date.** This Resolution shall be in full force and effect from and after its adoption by the Governing body.

**ADOPTED** by the City Council of the City of Wichita, Kansas, on \_\_\_\_\_.

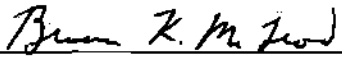
(SEAL)

\_\_\_\_\_  
Jeff Longwell, Mayor

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
for Jennifer Magaña, City Attorney and Director of Law



**RESOLUTION NO. \_\_\_\_ - \_\_\_\_**

**A RESOLUTION AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE CITY OF WICHITA, KANSAS TO PAY THE COSTS OF CERTAIN PUBLIC IMPROVEMENTS IN THE CITY.**

---

**WHEREAS**, the City of Wichita, Kansas (the "City") is a municipal corporation, duly created, organized and existing under the Constitution and laws of the State; and

**WHEREAS**, the Governing Body is authorized, pursuant to K.S.A. 13-1024c, as amended by Charter Ordinance No. 156 of the City (the "Act") to issue general obligation bonds of the City without an election for the purpose of paying for the construction, purchase or improvement of any public improvement, including the land necessary therefore, and for the purpose of rebuilding, adding to or extending the same as the necessities of the City may require and for the purpose of paying for certain personal property therefore; and

**WHEREAS**, the Governing Body hereby finds and determines that it is necessary and advisable to make certain public improvements described as follows:

**Preliminary design of improvements and staff oversight to 2<sup>nd</sup> Street, from Washington to Main (472-85284) and 1<sup>st</sup> Street, from Washington to Main (472-85285), as necessary for a major traffic facility.**

(the "Project") and to provide for the payment of all or a portion of the costs thereof by the issuance of general obligation bonds of the City pursuant to the Act.

**BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AS FOLLOWS:**

**Section 1. Project Authorization.** It is hereby authorized ordered and directed that the Project be acquired and/or constructed at an estimated cost of **\$85,000** in accordance with the plans and specifications therefor prepared under the direction of the City Engineer and approved by the Governing Body; said plans and specifications to be placed on file in the office of the City Engineer.

**Section 2. Project Financing.** All or portion of the costs of the Project, interest on financing and administrative and financing costs shall be financed with the proceeds of general obligation bonds of the City (the "Bonds"). The Bonds may be issued to reimbursed expenditures made on or after the date which is 60 days before the date of this Resolution, pursuant to Treasury Regulation §1.150-2.

**Section 3. Effective Date:** This Resolution shall be in full force and effect from and after its adoption by the Governing body.

**ADOPTED** by the City Council of the City of Wichita, Kansas, on \_\_\_\_\_.

(SEAL)

\_\_\_\_\_  
Jeff Longwell, Mayor

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

APPROVED AS TO FORM:

*Jennifer Magaña*  
for Jennifer Magaña, City Attorney and Director of Law



RESOLUTION NO. \_\_\_\_ - \_\_\_\_

**A RESOLUTION AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE CITY OF WICHITA, KANSAS TO PAY THE COSTS OF CERTAIN PUBLIC IMPROVEMENTS IN THE CITY.**

---

**WHEREAS**, the City of Wichita, Kansas (the "City") is a municipal corporation, duly created, organized and existing under the Constitution and laws of the State; and

**WHEREAS**, the Governing Body is authorized, pursuant to K.S.A. 13-1024c, as amended by Charter Ordinance No. 156 of the City (the "Act") to issue general obligation bonds of the City without an election for the purpose of paying for the construction, purchase or improvement of any public improvement, including the land necessary therefore, and for the purpose of rebuilding, adding to or extending the same as the necessities of the City may require and for the purpose of paying for certain personal property therefore; and

**WHEREAS**, the Governing Body hereby finds and determines that it is necessary and advisable to make certain public improvements described as follows:

**Preliminary design of improvements and staff oversight to Mt. Vernon and Hillside intersection, as necessary for a major traffic facility (472-85286).**

(the "Project") and to provide for the payment of all or a portion of the costs thereof by the issuance of general obligation bonds of the City pursuant to the Act.

**BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AS FOLLOWS:**

**Section 1. Project Authorization.** It is hereby authorized ordered and directed that the Project be acquired and/or constructed at an estimated cost of **\$40,000** in accordance with the plans and specifications therefor prepared under the direction of the City Engineer and approved by the Governing Body; said plans and specifications to be placed on file in the office of the City Engineer.

**Section 2. Project Financing.** All or portion of the costs of the Project, interest on financing and administrative and financing costs shall be financed with the proceeds of general obligation bonds of the City (the "Bonds"). The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of this Resolution, pursuant to Treasury Regulation §1.150-2.

**Section 3. Effective Date.** This Resolution shall be in full force and effect from and after its adoption by the Governing body.

**ADOPTED** by the City Council of the City of Wichita, Kansas, on \_\_\_\_\_.

(SEAL)

\_\_\_\_\_  
Jeff Longwell, Mayor

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

APPROVED AS TO FORM:

*Jennifer Magaña*  
for Jennifer Magaña, City Attorney and Director of Law

RESOLUTION NO. \_\_\_\_ - \_\_\_\_

**A RESOLUTION AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE CITY OF WICHITA, KANSAS TO PAY THE COSTS OF CERTAIN PUBLIC IMPROVEMENTS IN THE CITY.**

---

**WHEREAS**, the City of Wichita, Kansas (the "City") is a municipal corporation, duly created, organized and existing under the Constitution and laws of the State; and

**WHEREAS**, the Governing Body is authorized, pursuant to K.S.A. 13-1024c, as amended by Charter Ordinance No. 156 of the City (the "Act") to issue general obligation bonds of the City without an election for the purpose of paying for the construction, purchase or improvement of any public improvement, including the land necessary therefore, and for the purpose of rebuilding, adding to or extending the same as the necessities of the City may require and for the purpose of paying for certain personal property therefore; and

**WHEREAS**, the Governing Body hereby finds and determines that it is necessary and advisable to make certain public improvements described as follows:

**Preliminary design of improvements and staff oversight to 9<sup>th</sup> Street, from I-235 to Hillside, as necessary for a major traffic facility (472-85287).**

(the "Project") and to provide for the payment of all or a portion of the costs thereof by the issuance of general obligation bonds of the City pursuant to the Act.

**BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AS FOLLOWS:**

**Section 1. Project Authorization.** It is hereby authorized ordered and directed that the Project be acquired and/or constructed at an estimated cost of **\$35,000** in accordance with the plans and specifications therefor prepared under the direction of the City Engineer and approved by the Governing Body; said plans and specifications to be placed on file in the office of the City Engineer.

**Section 2. Project Financing.** All or portion of the costs of the Project, interest on financing and administrative and financing costs shall be financed with the proceeds of general obligation bonds of the City (the "Bonds"). The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of this Resolution, pursuant to Treasury Regulation §1.150-2.

**Section 3. Effective Date.** This Resolution shall be in full force and effect from and after its adoption by the Governing body.

**ADOPTED** by the City Council of the City of Wichita, Kansas, on \_\_\_\_\_.

(SEAL)

\_\_\_\_\_  
Jeff Longwell, Mayor

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Jennifer Magaña, City Attorney and Director of Law

## **RESOLUTION NO. 16-**

### **A RESOLUTION AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE CITY OF WICHITA, KANSAS TO PAY THE COSTS OF CERTAIN PUBLIC IMPROVEMENTS IN THE CITY.**

---

**WHEREAS**, the City of Wichita, Kansas (the “City”) is a municipal corporation, duly created, organized and existing under the Constitution and laws of the State; and

**WHEREAS**, the Governing Body is authorized, pursuant to K.S.A. 13-1024c, as amended by Charter Ordinance No. 156 of the City (the “Act”) to issue general obligation bonds of the City without an election for the purpose of paying for the construction, purchase or improvement of any public improvement, including the land necessary therefore, and for the purpose of rebuilding, adding to or extending the same as the necessities of the City may require and for the purpose of paying for certain personal property therefore; and

**WHEREAS**, the Governing Body hereby finds and determines that it is necessary and advisable to make certain public improvements described as follows:

**Preliminary design of improvements and staff oversight to Tyler, from Maple to Central, as necessary for a major traffic facility (472-85282).**

(the “Project”) and to provide for the payment of all or a portion of the costs thereof by the issuance of general obligation bonds of the City pursuant to the Act.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AS FOLLOWS:

**Section 1. Project Authorization.** It is hereby authorized ordered and directed that the Project be acquired and/or constructed at an estimated cost of **\$43,000** in accordance with the plans and specifications therefor prepared under the direction of the City Engineer and approved by the Governing Body; said plans and specifications to be placed on file in the office of the City Engineer.

**Section 2. Project Financing.** All or portion of the costs of the Project, interest on financing and administrative and financing costs shall be financed with the proceeds of general obligation bonds of the City (the “Bonds”). The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of this Resolution, pursuant to Treasury Regulation §1.150-2.

**Section 3. Effective Date.** This Resolution shall be in full force and effect from and after its adoption by the Governing body.

**ADOPTED** by the City Council of the City of Wichita, Kansas, on April 19, 2016.

(SEAL)

---

Jeff Longwell, Mayor

ATTEST:

---

Karen Sublett, City Clerk

APPROVED AS TO FORM:

---

Jennifer Magaña, City Attorney and Director of Law

## **RESOLUTION NO. 16-**

### **A RESOLUTION AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE CITY OF WICHITA, KANSAS TO PAY THE COSTS OF CERTAIN PUBLIC IMPROVEMENTS IN THE CITY.**

---

**WHEREAS**, the City of Wichita, Kansas (the “City”) is a municipal corporation, duly created, organized and existing under the Constitution and laws of the State; and

**WHEREAS**, the Governing Body is authorized, pursuant to K.S.A. 13-1024c, as amended by Charter Ordinance No. 156 of the City (the “Act”) to issue general obligation bonds of the City without an election for the purpose of paying for the construction, purchase or improvement of any public improvement, including the land necessary therefore, and for the purpose of rebuilding, adding to or extending the same as the necessities of the City may require and for the purpose of paying for certain personal property therefore; and

**WHEREAS**, the Governing Body hereby finds and determines that it is necessary and advisable to make certain public improvements described as follows:

**Preliminary design of improvements and staff oversight to 2<sup>nd</sup> Street, from Washington to Main (472-85284) and 1<sup>st</sup> Street, from Washington to Main (472-85285), as necessary for a major traffic facility.**

(the “Project”) and to provide for the payment of all or a portion of the costs thereof by the issuance of general obligation bonds of the City pursuant to the Act.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AS FOLLOWS:

**Section 1. Project Authorization.** It is hereby authorized ordered and directed that the Project be acquired and/or constructed at an estimated cost of **\$85,000** in accordance with the plans and specifications therefor prepared under the direction of the City Engineer and approved by the Governing Body; said plans and specifications to be placed on file in the office of the City Engineer.

**Section 2. Project Financing.** All or portion of the costs of the Project, interest on financing and administrative and financing costs shall be financed with the proceeds of general obligation bonds of the City (the “Bonds”). The Bonds may be issued to reimbursed expenditures made on or after the date which is 60 days before the date of this Resolution, pursuant to Treasury Regulation §1.150-2.

**Section 3. Effective Date.** This Resolution shall be in full force and effect from and after its adoption by the Governing body.

**ADOPTED** by the City Council of the City of Wichita, Kansas, on April 19, 2016.

(SEAL)

---

Jeff Longwell, Mayor

ATTEST:

---

Karen Sublett, City Clerk

APPROVED AS TO FORM:

---

Jennifer Magaña, City Attorney and Director of Law



## RESOLUTION NO. 16-082

### **A RESOLUTION AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE CITY OF WICHITA, KANSAS TO PAY THE COSTS OF CERTAIN PUBLIC IMPROVEMENTS IN THE CITY.**

---

**WHEREAS**, the City of Wichita, Kansas (the “City”) is a municipal corporation, duly created, organized and existing under the Constitution and laws of the State; and

**WHEREAS**, the Governing Body is authorized, pursuant to K.S.A. 13-1024c, as amended by Charter Ordinance No. 156 of the City (the “Act”) to issue general obligation bonds of the City without an election for the purpose of paying for the construction, purchase or improvement of any public improvement, including the land necessary therefore, and for the purpose of rebuilding, adding to or extending the same as the necessities of the City may require and for the purpose of paying for certain personal property therefore; and

**WHEREAS**, the Governing Body hereby finds and determines that it is necessary and advisable to make certain public improvements described as follows:

**Preliminary design of improvements and staff oversight to Mt. Vernon and Hillside intersection, as necessary for a major traffic facility (472-85286).**

(the “Project”) and to provide for the payment of all or a portion of the costs thereof by the issuance of general obligation bonds of the City pursuant to the Act.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AS FOLLOWS:

**Section 1. Project Authorization.** It is hereby authorized ordered and directed that the Project be acquired and/or constructed at an estimated cost of **\$40,000** in accordance with the plans and specifications therefor prepared under the direction of the City Engineer and approved by the Governing Body; said plans and specifications to be placed on file in the office of the City Engineer.

**Section 2. Project Financing.** All or portion of the costs of the Project, interest on financing and administrative and financing costs shall be financed with the proceeds of general obligation bonds of the City (the “Bonds”). The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of this Resolution, pursuant to Treasury Regulation §1.150-2.

**Section 3. Effective Date.** This Resolution shall be in full force and effect from and after its adoption by the Governing body.

**ADOPTED** by the City Council of the City of Wichita, Kansas, on April 19, 2016.

(SEAL)

---

Jeff Longwell, Mayor

ATTEST:

---

Karen Sublett, City Clerk

APPROVED AS TO FORM:

---

Jennifer Magaña, City Attorney and Director of Law

**RESOLUTION NO. 16-083**

**A RESOLUTION AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE CITY OF WICHITA, KANSAS TO PAY THE COSTS OF CERTAIN PUBLIC IMPROVEMENTS IN THE CITY.**

---

**WHEREAS**, the City of Wichita, Kansas (the “City”) is a municipal corporation, duly created, organized and existing under the Constitution and laws of the State; and

**WHEREAS**, the Governing Body is authorized, pursuant to K.S.A. 13-1024c, as amended by Charter Ordinance No. 156 of the City (the “Act”) to issue general obligation bonds of the City without an election for the purpose of paying for the construction, purchase or improvement of any public improvement, including the land necessary therefore, and for the purpose of rebuilding, adding to or extending the same as the necessities of the City may require and for the purpose of paying for certain personal property therefore; and

**WHEREAS**, the Governing Body hereby finds and determines that it is necessary and advisable to make certain public improvements described as follows:

**Preliminary design of improvements and staff oversight to 9<sup>th</sup> Street, from I-235 to Hillside, as necessary for a major traffic facility (472-85287).**

(the “Project”) and to provide for the payment of all or a portion of the costs thereof by the issuance of general obligation bonds of the City pursuant to the Act.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, AS FOLLOWS:

**Section 1. Project Authorization.** It is hereby authorized ordered and directed that the Project be acquired and/or constructed at an estimated cost of **\$35,000** in accordance with the plans and specifications therefor prepared under the direction of the City Engineer and approved by the Governing Body; said plans and specifications to be placed on file in the office of the City Engineer.

**Section 2. Project Financing.** All or portion of the costs of the Project, interest on financing and administrative and financing costs shall be financed with the proceeds of general obligation bonds of the City (the “Bonds”). The Bonds may be issued to reimbursed expenditures made on or after the date which is 60 days before the date of this Resolution, pursuant to Treasury Regulation §1.150-2.

**Section 3. Effective Date.** This Resolution shall be in full force and effect from and after its adoption by the Governing body.

**ADOPTED** by the City Council of the City of Wichita, Kansas, on April 19, 2016.

(SEAL)

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Jeff Longwell, Mayor

ATTEST:

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Karen Sublett, City Clerk

APPROVED AS TO FORM:

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Jennifer Magaña, City Attorney and Director of Law

AGREEMENT

for

PROFESSIONAL SERVICES

between

THE CITY OF WICHITA, KANSAS

and

TRANSYSTEMS CORPORATION.

for

2<sup>nd</sup> STREET NORTH BETWEEN MAIN & WASHINGTON AND  
1<sup>ST</sup> STREET BETWEEN WASHINGTON AND MEAD (OLD TOWN)

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and TRANSYSTEMS CORPORATION, party of the second part, hereinafter called the "ENGINEER".

WHEREAS, the CITY intends to construct;

2<sup>nd</sup> STREET NORTH BETWEEN MAIN & WASHINGTON, AND 1<sup>st</sup> STREET BETWEEN WASHINGTON AND MEAD (Old Town) (Project No. 472-85284 & 472-85285).

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. SCOPE OF SERVICES

The ENGINEER shall furnish professional services as required for designing paving improvements in 2<sup>nd</sup> Street North between Main & Washington, and 1<sup>st</sup> Street between Washington and Mead (Old Town), and to perform the PROJECT tasks outlined in the SCOPE OF SERVICES (Exhibit "A").

II. IN ADDITION, THE ENGINEER AGREES

- A. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in Exhibit "A".
- B. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.
- C. To make available during regular office hours, all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this agreement.
- D. To save and hold CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.

- E. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY.
- F. To comply with all Federal, State and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply with the CITY'S Affirmative Action Program as set forth in Exhibit "B" which is attached hereto and adopted by reference as though fully set forth herein.
- G. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.
- H. To complete the services to be performed by ENGINEER within the time allotted for the PROJECT in accordance with Exhibit "A", EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond control of the ENGINEER.
- I. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ENGINEER under this agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by ENGINEER, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.
- J. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement. Such policy of insurance shall be in an amount not less than \$500,000.00 subject to a deductible of \$10,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

Workman's Compensation - Statutory  
Employer's Liability - \$500,000 each occurrence.

Further, a comprehensive general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER against all claims arising from injuries to persons (other than ENGINEER'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this agreement. The liability limit shall not be less than \$500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time ENGINEER starts any work under this agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.

- K. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s) designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this agreement. The ENGINEER shall also advise the CITY of any changes in the person designated Project Manager. Written notification shall be provided to the CITY for any changes exceeding one week in length of time.

### III. THE CITY AGREES:

- A. To furnish all available data pertaining to the PROJECT now in the CITY'S files at no cost to the ENGINEER. Confidential materials so furnished will be kept confidential by the ENGINEER.
- B. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ENGINEER, except as specified in Exhibit "A".
- C. To pay the ENGINEER for his services in accordance with the requirements of this agreement.

- D. To provide the right-of-entry for ENGINEER'S personnel in performing field surveys and inspections.
- E. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The CITY agrees to advise, the ENGINEER, in writing, of the person(s) designated as Project Manager with the issuance of the notice to proceed on the work required by this agreement. The CITY shall also advise the ENGINEER of any changes in the person(s) designated Project Manager. Written notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.
- F. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

#### IV. PAYMENT PROVISIONS

- A. Payment to the ENGINEER for the performance of the professional services required by this agreement shall be made on the basis of the not to exceed fee amount specified below:

**Project No. 472 85284 & 472 85285 Concept Design      \$ 75,000**

- B. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:
  - 1. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the PROJECT.
  - 2. Additional design services not covered by the scope of this agreement.
  - 3. Construction staking, material testing, inspection and administration related to the PROJECT.
  - 4. A major change in the scope of services for the PROJECT.
 If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.

#### V. THE PARTIES HERETO MUTUALLY AGREE:

- A. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the ENGINEER'S inability to proceed with the work.
- B. That the field notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that CITY shall hold ENGINEER harmless from any and all claims, damages or causes of action which arise out of such further use when such further use is not in connection with the PROJECT.
- C. That the services to be performed by the ENGINEER under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.
- D. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by the CITY, provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefor.
- E. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.
- F. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement shall be construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.
- G. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.
- H. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof a third party beneficiary hereunder; or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this agreement as of the date first written above.

BY ACTION OF THE CITY COUNCIL

\_\_\_\_\_  
Jeff Longwell, Mayor

SEAL:

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Jennifer Magaña, City Attorney and Director of Law

TRANSSYSTEMS CORPORATION

  
\_\_\_\_\_  
(Name & Title)

BRETT A. LETKOWSKI, PE  
SENIOR VICE PRESIDENT



## EXHIBIT "A"

### SCOPE OF SERVICES

#### CAPITAL IMPROVEMENT PROGRAM (CIP) PROJECTS

Upon award of this project the ENGINEER will contact utility companies directly and determine from the existing records the location of all utilities. Coordination with the utility companies involved will include a conceptual plan jointly developed with the utility company indicating the methods employed to resolve utility conflicts. The conceptual plan should include elements of designing around the utility, analysis of construction expense vs. design expense, and utility company expenses to resolve conflicts.

On projects that disturb one acre or more, the ENGINEER will prepare a storm water pollution prevention plan, prepare the necessary permit application(s) and include any provisions or requirements in the project plans and special provisions. The storm water pollution prevention plan shall also include submittal of a Notice of Intent (NOI) prior to bidding; site-specific erosion control plan; and standard Best Management Practice (BMP) detail sheets per Attachment No. 1 to Exhibit "A".

Associated improvements as part of these projects will include, when applicable: permanent traffic signalization system improvements, permanent traffic signing, permanent pavement markings, construction traffic control, construction phasing, incidental drainage, sidewalk, identification of additional right-of-way and furnishing tract drawings and legal descriptions for such right-of-way.

The ENGINEER shall furnish engineering services as required for the best and most cost effective design for the development of the project and provide project alternatives where applicable, including landscaping and beautification provisions on streets where appropriate in available right-of-way; the project plans; supplemental specifications; quantities of work; and estimates of the cost for the PROJECT in the format and detail required by the City Engineer for the City of Wichita; and the Kansas Department of Transportation (KDOT); and the U.S. Army Corps of Engineers, or any other regulatory agency, when applicable. The project alternatives, including proposed landscaping, are to be presented to the City's Design Council, when directed by the Design Engineer, for concurrence in selection prior to progressing to detailed aspects of the work. ENGINEER should use plant material that is drought resistant and requires low maintenance in a xeriscape concept, and is consistent with the City of Wichita Landscape Policy for Arterial Streets. A landscape architect should be included on the ENGINEER's Design Team.

The ENGINEER should identify all trees that may be in conflict or jeopardy of damage by construction activities and then review with Park Department to determine if the trees can be saved and/or moved. In addition, the ENGINEER will notify the City Archaeologist at 316-978-3195 prior to beginning work on this project.

All references below to KDOT only apply to State and Federal Aid projects.

THIS IS NOT A STATE/FEDERAL AID CONTRACT.

In connection with the services to be provided, the ENGINEER shall:

#### A. PHASE I - PRELIMINARY CONCEPT DEVELOPMENT

When authorized by the CITY and where applicable, proceed with development of Study and Alternative Concepts for the PROJECT in the detail deemed necessary to permit the preparation of preliminary and final plans for construction of the improvements based on the preliminary information provided to the ENGINEER.

1. Review Alternative Design Concepts. Review alternative design concepts with the City Engineer or his designated representative prior to progressing to detail aspects of the work. Alternative concepts as ascertained shall be reviewed and discussed with the City Engineer or his designated representative for concurrence in determining the best horizontal and vertical alignments for the PROJECT. CITY'S

concurrence in selection of an alternate or preliminary concept will be contingent on the accuracy and completeness of the background information provided by the ENGINEER used in the evaluation process.

2. Review Preliminary Design Concepts. Review preliminary design concepts with the City Engineer for the City of Wichita prior to progressing to detail aspects of the work. Preliminary design concepts shall be provided on a strip map suitable for presentation at public meetings as required by the City Engineer of the City of Wichita.
3. Drainage Study. When authorized, conduct a detailed study to explore alternative design concepts concerning drainage for the PROJECT. Present the findings in writing identifying recommendations to the CITY, including preliminary cost estimates, prior to development of field check plans. Such written findings and recommendations must be in a format which is self-explanatory and readily understood by persons with average backgrounds for the technology involved.
4. Preliminary Street and Storm Water Sewer Alignments and Profiles. Prepare preliminary street geometrics/alignments with proposed street and storm water sewer grades to conform to the drainage plan for the PROJECT. The drainage plan and computations shall be submitted along with one (1) set of preliminary street and storm water sewer profiles to the CITY for review and approval prior to proceeding with development of field check plans.
5. Preliminary Water Line and Sanitary Sewer Alignments and Profiles. Preliminary water and sanitary sewer alignments and grades are to be reviewed with the CITY by the ENGINEER for approval prior to proceeding to detail aspects of the work. The ENGINEER shall verify and coordinate work to be completed with the Public Works & Utilities Department.
6. Right-of-Way & Temporary Construction Easements. Identify permanent right-of-way and temporary construction easement requirements for the preliminary concepts developed. Such right-of-way and temporary construction easement requirements shall be provided on a strip map suitable for presentation at public meetings as required by the City Engineer.
7. Public Hearings. Assist the City in the conduct of a public hearing(s) on the proposed improvements for the PROJECT as necessary to inform the public, governmental agencies, and affected parties as to construction traffic control, construction sequence and methods, estimated time and duration of project construction, environmental assessment, right-of-way requirements, estimated project costs, etc.. Provide adequate visual displays for public presentations and in electronic format for use in Power Point presentation.
8. S. I. & A. for Existing Bridges. For the duration of the project, the ENGINEER shall perform National Bridge Inventory (NBI) inspections as per the KDOT Bridge Inspection Manual in addition to load rating and updating the Structural Inventory and Appraisal (S. I. & A.) form for submittal to KDOT for all existing bridges within the project limits as per regular City inspection schedule.
9. Landscape Plans. When the design has fulfilled the program requirements, submit a PDF set of landscape plans to the CITY'S project manager. After the project manager approves the plans, he/she will submit the same to the Park Department for review and comments. When the Park Department has approved the plans, the ENGINEER may proceed with placing them on the Design Council agenda for review and comment as directed by the CITY.
10. Design Council. As requested, ENGINEER shall meet with the City's Design Council to review the PROJECT design and interpret engineering drawings. The first presentation should be made at the point when the ENGINEER has arrived at a design which meets all of the functional requirements of the program and has been tentatively approved by the City staff person in charge. Before authorization is given to the ENGINEER to move on to design development, the PROJECT should be presented to the Design Council for review.

**B. PHASE II - PLAN DEVELOPMENT**

When authorized by the CITY, proceed with development of Plans for the PROJECT based on the preliminary design concepts approved by the CITY.

1. Design Council. As requested, ENGINEER shall meet with the City's Design Council to review the PROJECT design and interpret engineering drawings. The PROJECT should be presented when the design of the PROJECT has been perfected to the point where all design factors (shape, size, materials, colors, landscape, exterior relationship, amenities, etc.) have been decided and tentatively approved by staff. It is at this point that the design can be considered "frozen" and will not be changed

except for unforeseen conditions, which may arise.

(It should be noted it is in the ENGINEER'S best interest to reach design freeze and gain aesthetic approval as early in the project as possible. Whereas the Design Council does not presume to tell the ENGINEER or staff when in the planning process design freeze should take place, the amount of time and effort which the ENGINEER has invested in the development of construction documents or other activities will not be taken into consideration by the Design Council at the Design Freeze review.)

2. **Field Check Plans.** When authorized by the CITY, prepare field check plans and a preliminary cost estimate for the PROJECT based on approved preliminary concepts as required by the CITY. ENGINEER to submit one copy of preliminary cost estimate and two (2) sets of field check plans to the CITY and one copy of preliminary cost estimate and one electronic set of field check plans to KDOT, to be uploaded to the KDOT FTP site. ENGINEER to participate in a field check of the PROJECT with the CITY and with KDOT when required. Major items of work included in development of field check plans are:

- (a) **Field Surveys.** Provide engineering and technical personnel and equipment to obtain survey data as required for the engineering design. Utility companies shall be requested to flag or otherwise locate their facilities within the PROJECT limits prior to the ENGINEER conducting the field survey for the PROJECT. Utility information shall be clearly noted and identified on the plans.

- (b) **Utility Coordination.** Identify all potential utility conflicts and provide preliminary field check plans showing the problem locations, posted to the City's FTP site. Plans will clearly identify specific utility company facilities by color and by name (i.e. not just "gas" or "fiber optic"). ENGINEER shall include a conflict list for each utility, also posted to the FTP site. ENGINEER shall meet with utility company representatives to review plans and utility verification forms (**Attachment No. 3 to Exhibit "A"**) at each milestone date and as directed by the CITY and as determined necessary by the ENGINEER. This information will be compiled into a summary report (**Attachment No. 4 to Exhibit "A"**) maintained and updated by ENGINEER as necessary to present a cohesive and reflective status of utilities, and provided to the City as necessary. **ENGINEER shall maintain involvement with utility companies until all conflicts have been resolved (not just identified).** When appropriate, the City Engineer will approve the identification on plans of conflicts to be resolved during construction. ENGINEER shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction.

- (c) **Soils and Foundation Investigations.** The CITY may authorize ENGINEER to direct an approved Testing Laboratory to perform subsurface borings and soils investigations for the PROJECT, which shall be reported in the format and detail required by the City Engineer for the City of Wichita. The Testing Laboratory shall be responsible for the accuracy and competence of their work. The ENGINEER'S contract with the Testing Laboratory shall provide that the Testing Laboratory is responsible to the City for the accuracy and competence of the Testing Laboratory's work. If required the cost of soils and boring investigations shall be prepared as a supplemental agreement between City of Wichita and the ENGINEER. This may be required for bridges, structures, retaining walls and other locations.

- (d) **Property Acquisitions.** Prepare right-of-way/easement tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions. ENGINEER will perform all necessary survey work associated with marking the additional right-of-way or easements. This shall include the permanent monumentation of new corners for any additional right-of-way and a one-time marking of all the right-of-way for utility relocations at a time directed by the CITY. **The ENGINEER shall perform all necessary title work and sufficient research for determination of current right-of-way and easements.**

- (e) **Temporary Construction Easements.** Prepare legal descriptions for Temporary Construction Easements (TCE) for all parcels where the construction limits extend beyond the existing/proposed right-of-way, and submit tract maps to the City that are suitable for mailing to property owners. The tract maps should include all features shown on the plans, including but not limited to structures, trees, fences, signs, monuments, etc., and should indicate if such items will be impacted within the required easement. Incorporate TCE limits on the plans.

- (f) **ENGINEER** shall provide a clearly defined list of known encroachments into the existing right-of-way, including but not limited to structures, fences, planters, walls, etc. The list shall be in tabular form and include the property address and owner information, approximate baseline station of the encroachment, and nature/description of the same.
- (g) **ENGINEER** shall provide a list of proposed driveway closures, relocations or other changes. The list shall be in tabular form and include the property address and owner information, approximate baseline station of the approach, and nature/description of the same.
3. **Office Check Plans.** When authorized by the CITY prepare office check plans for the PROJECT based upon comments as agreed upon in field check review. Major items of work included in development of office check plans are:
- (a) **Plan Submittal.** Submit two (2) sets of office check plans to the CITY, with one copy of supplemental specifications and one copy of cost estimates and quantities of work units of the PROJECT for office check. (Cost estimates to be based on current unit prices for similar work in the Wichita area unless otherwise directed by the CITY.) Field check plans marked with CITY and/or KDOT comments are to be returned to the CITY with office check plan submittals. **ENGINEER** to participate in an office check of the PROJECT with the CITY and KDOT when required.
- (b) **Utility Coordination.** Identify all potential utility conflicts and provide preliminary office check plans showing the problem locations, posted to the City's FTP site. Plans will clearly identify specific utility company facilities by color and by name (i.e. not just "gas" or "fiber optic"). **ENGINEER** shall include a conflict list for each utility, also posted to the FTP site. **ENGINEER** shall meet with utility company representatives to review plans and utility verification forms (**Attachment No. 3 to Exhibit "A"**) at each milestone date and as directed by the CITY and as determined necessary by the **ENGINEER**. This information will be compiled into a summary report (**Attachment No. 4 to Exhibit "A" also available on the City's FTP site**) maintained and updated by **ENGINEER** as necessary to present a cohesive and reflective status of utilities, and provided to the City as necessary. **ENGINEER shall maintain involvement with utility companies until all conflicts have been resolved (not just identified).** When appropriate, the City Engineer will approve the identification on plans of conflicts to be resolved during construction. **ENGINEER** shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction.
- (c) **Plan Requirements.** Office check plans shall include traffic signalization details, traffic signing details, pavement marking details, incidental drainage, construction phasing details (when applicable), construction traffic control details, and all other necessary construction details required for the PROJECT. The PROJECT'S plans and proposed special provisions shall address the requirements included in the City's Administrative Regulation 6.5, "Cleanup, Restoration or Replacement Following Construction."
- (d) **Permits.** The **ENGINEER** shall prepare any and all necessary permits for this PROJECT, such as the preparation of applications for U.S. Army Corps of Engineers (404) permits, Division of Water Resources permit, Kansas Department of Wildlife and Parks permit and Kansas Department of Health and Environment permit. Also if requested by the CITY, obtain construction approval from the U.S. Army Corps of Engineers and assist the CITY in coordinating the archaeological review of the PROJECT. **The ENGINEER shall be responsible for the cost of all permit fees that are required to complete the PROJECT. The cost shall be included in the design fee submitted by the ENGINEER.**
4. **Project Milestones.** The **ENGINEER** agrees to complete and deliver the field notes, preliminary and final plans, specifications and estimates to the CITY within the time allotted for the project as stipulated below; EXCEPT that the **ENGINEER** shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond the control of the **ENGINEER**.
- Concept Design for 2<sup>nd</sup> St. N. due by June 6, 2016.  
 Concept Design for 1<sup>st</sup> St. due by June 6, 2016.  
 Field Check Plans and an estimate for 2<sup>nd</sup> St. N. due by September 12, 2016.  
 Field Check Plans and an estimate for 1<sup>st</sup> St. due by August 8, 2016.

Office Check Plans and an estimate for 2<sup>nd</sup> St. N. due by November 7, 2016.

Office Check Plans and an estimate for 1<sup>st</sup> St. due by September 12, 2016.

Completion of all work required by this agreement (including submittal of final approved plans, field notes, and related project documents for 2<sup>nd</sup> St. N. by January 10, 2017.

Completion of all work required by this agreement (including submittal of final approved plans, field notes, and related project documents for 1<sup>st</sup> St. due by November 7, 2016.

5. **Final Plans.** When authorized by the CITY prepare final plans for the PROJECT based upon comments as agreed upon as a result of the office check review. Major items of work included in development of final plans are:
  - (a) Prepare engineering plans (which shall include construction sequencing and traffic control), supplemental specifications, special provisions and construction cost estimates, or estimates of the quantities of work for the PROJECT.
  - (b) Final Plan Submittals. Final plans, field notes and other pertinent project mapping records are to be submitted per Attachment No. 1 to Exhibit "A".
  - (c) Technical construction specifications shall in general follow the City of Wichita's Standard Specifications and/or KDOT Standard Specifications supplemented as necessary to suit PROJECT requirements. Plan profile sheets shall also be required for water distribution system/water supply line improvements.
  - (d) ENGINEER shall provide a clearly defined list of known encroachments into the existing right-of-way, including but not limited to structures, fences, planters, walls, etc. The list shall be in tabular form and include the property address and owner information, approximate baseline station of the encroachment, and nature/description of the same. The list of encroachments should reflect conditions at the time of final plan submittal.
  - (e) ENGINEER shall provide a list proposed driveway closures, relocations or other changes. The list shall be in tabular form and include the property address and owner information, approximate baseline station of the approach, and nature/description of the same.
  - (f) Engineer's cost estimate information shall be submitted in tabular form and on a unit cost basis, as approved by the CITY and as required by KDOT. Pay items of work shall conform to the CITY's Master Bid Item List.
  - (g) Final plans when submitted shall be complete and ready for reproducing for distribution to prospective bidders.
  - (h) All applicable coordinate control points and related project staking information shall be furnished on the plans in the form of a bubble map, as well as on a CD-ROM in a text format agreed upon by the CITY. This coordinate information will be used by the CITY for construction staking purposes. See Attachment No. 2 to Exhibit "A" for required coordinate information.
  - (i) The date identified as the date of CITY acceptance of final plans and other supplementary work will be that date upon which the City Engineer ascertains that such plans and work are in accordance with all provisions of the contract for design services.
  - (j) ENGINEER shall provide the CITY with electronic files suitable for power point presentations to the Design Council and City Council.
6. **Staking and Inspection** If requested by the CITY, the ENGINEER will enter into a Supplemental Agreement to complete construction staking, material testing, inspection and administration related to the PROJECT.
7. **Post Letting.**
  - (a) All shop drawings submitted by the contractor for the PROJECT shall be reviewed and, when acceptable, approved for construction by the ENGINEER for the PROJECT.
  - (b) The ENGINEER shall meet with effected property owners, along with City staff, at a pre-construction Public Information Meeting, as arranged by the City, to explain project design, including such issues as construction phasing and traffic control.
  - (c) New Right-of-Way Monumentation. The Engineer shall complete permanent monumentation of all new R/W after project completion, complete and submit all necessary legal documentation for same.

(d) Section Corner Monuments. The Engineer shall provide services required by KSA Chapter 58, Article 20, Statute 58-2011, any time a section corner or monument will be endangered, disturbed, or removed. The City of Wichita Construction Engineer will receive a copy of all Land Survey Reference Reports submitted to the Secretary of State Historical Society. All costs associated with this effort shall be the responsibility of the Engineer. The City will provide a three business day notice to the Engineer to mark the monument location for re-establishment after pavement work is completed. The City will then core and install a cast iron monument box and cover. The Engineer will be notified within three business days after the box is installed to reset the final monument.

(e) S. I. & A. for Bridges. Upon completion of any and all bridge construction, the ENGINEER shall perform the National Bridge Inventory (NBI) inspection as per KDOT Bridge Inspection Manual, in addition to load rating and updating the Structural Inventory and Appraisal (S. I. & A.) form and completing the Item 113 Justification Form for the new bridges if applicable for submittal to KDOT for all bridges within the project limits regardless of initial structure size.

## **Attachment No. 1 to Exhibit "A" – CIP Scope of Services**

### **Plan Submittal**

*Water* projects plans shall be submitted with (1) set of mylar plans; and a CD of the .dwgs and .pdfs. This includes projects that have the water plans incorporated into that project, for which the cover sheet should also be included.

Storm Sewer, Sanitary Sewer and Paving plans shall be submitted in a .dwg and .pdf format on a CD.

In addition, two (2) sets of 11"x17" plans will be submitted at the time of final .pdf submittal for ALL projects, regardless of the type.

### **Storm Water Pollution Prevention**

For any project disturbing one acre of ground or more, the design Consultant must prepare a Notice of Intent and a Storm Water Pollution Prevention Plan and submit them to the KDHE for approval. Complete copies of the approved NOI and SWP3 must be provided to the City. One hard copy should be provided to the project engineer upon approval, one electronic copy should be included with your transmittal of PDF plan files, and one additional electronic copy should be sent to the attention of Mark Hall at the following address:

City of Wichita  
Storm Water  
455 N. Main 8<sup>th</sup> Floor  
Wichita, KS 67202

THIS INCLUDES **ALL** PROJECTS DISTURBING ONE ACRE OR MORE – I.E. NEW DEVELOPMENT, ARTERIAL STREETS, DIRT STREETS, BIKE PATHS, SEWER MAINS, ETC.

The City of Wichita will, under no circumstance, bid any project without first receiving copies of the KDHE approved NOI and SWP3.

The design of all City of Wichita construction projects must include the development of a site-specific erosion control plan. The site-specific erosion control plan must be included in the project plans. Every component and requirement of the erosion control plan must be separately and accurately accounted as a measured quantity bid item in the engineer's estimate.

Please note that careful consideration must be given to the transition of BMP maintenance responsibilities throughout the course of multi-phased projects. All intended responsibilities must be clearly demonstrated by the bid items. For example, if it is intended that the contractor of a subsequent waterline project be responsible for the maintenance of silt fence installed with a preceding sanitary sewer project, a measured quantity bid item must be submitted for x-lf of silt fence maintenance.

The City's current BMP standard detail sheets shall be included in all plans. These five sheets must be included in every plan set developed for the City of Wichita, regardless of project size.

## **Attachment No. 2 to Exhibit "A" – CIP Scope of Services**

### **Required Plan Coordinate Information**

#### **Arterial Street Projects & Infill (Existing Neighborhoods)**

##### **I. SANITARY SEWER**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments
- benchmarks, including TBM set with preliminary survey
- center of manholes
- end of manhole stubs (when longer than five feet)

##### **II. WATER LINE**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments; any necessary points for establishing BL, including P.I.'s in BL
- benchmarks, including TBM set with preliminary survey
- beginning and ends of pipe
- all P.I.'s/deflections (horizontal and vertical)
- FH's, tees, bends, air release, valves

##### **III. STORM SEWER**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments; any necessary points for establishing BL, including P.I.'s in BL
- benchmarks, including TBM set with preliminary survey
- center of inside face on Type 1/1A curb inlets; center of high edge on Type 2 curb inlets
- for skewed inlets typically in intersection radii, or not parallel to baseline – center of curb inlet AND center of inside face on Type 1/1A curb inlets; center of high edge on Type 2 curb inlets
- end of end section, at CL of pipe
- center, end of pipe at outside face of headwall; if headwall not perpendicular to pipe, each corner of headwall at outside face
- center of all drop inlets, manholes, and other structures
- center of RCBC at each end (outside face of hubguard); if box rotated, each corner, outside face

##### **IV. PAVING**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments; any necessary points for establishing BL, including P.I.'s in BL
- benchmarks, including TBM set with preliminary survey
- center of signal poles, service and junction boxes, controller, etc.; ends and P.I.'s for retaining walls, at back of walls



**THE SAME COORDINATE SYSTEM SHALL BE USED FOR ALL SEPARATE PHASES OF A LARGER INFILL OR ARTERIAL STREET PROJECT.**

**Sub-Division Projects**

**I. SANITARY SEWER**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey
- center of manholes
- back and/or front lot corners for specifically referenced easement grading, outside that included in mass grading projects; include coordinates for vertical P.I. locations not at lot corners
- end of manhole stubs (when longer than five feet)

**II. WATER DISTRIBUTION SYSTEM**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey
- beginning and ends of pipe
- all P.I.'s/deflections (horizontal and vertical)
- FH's, tees, bends, air release, valves

**III. WATER SUPPLY LINE**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments; any necessary points for establishing BL, including P.I.'s in BL
- benchmarks, including TBM set with preliminary survey
- beginning and ends of pipe
- all P.I.'s/deflections (horizontal and vertical)
- FH's; tees, bends, air release, valves

**IV. STORM SEWER**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey
- center of inside face on Type 1/1A curb inlets; center of high edge on Type 2 curb inlets
- for skewed inlets typically in intersection radii, or not parallel to baseline – center of curb inlet AND center of inside face on Type 1/1A curb inlets; center of high edge on Type 2 curb inlets
- end of end section, at CL of pipe
- center, end of pipe at outside face of headwall; if headwall not perpendicular to pipe, each corner of headwall at outside face
- center of all drop inlets, manholes, and other structures
- center of RCBC at each end (outside face of hubguard); if box rotated, each corner, outside face

**V. MASS GRADING**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase.
- benchmarks, including TBM set with preliminary survey
- all lot corners
- any grade breaks between front & rear lot corners
- high points/low points within drainage easements
- street area
  - centerline @ 100' Sta on tangent sections
  - pc/pt points & 50' along curves
- special drainage swales
  - pc/pt points, pi's & 50' Sta in between
- ponds
  - any grades breaks between pond bottom and rear property line
  - pc/mid radius/pt around pond curves
- for irregular shaped lots (mainly commercial or industrial developments) provide TIN file

## **VI. PAVING**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey

**In addition to the required coordinate information, the following shall be included in all plans, at a minimum, as needed for construction staking on all City projects.**

- Include copy of plat(s) on all plans, as relevant and approved by the Design Engineer
- Benchmarks – minimum of two City standards, four total desirable; as close to project as possible, even if TBM set with preliminary survey;
- Benchmark elevations must be in the same datum as the design (i.e. NAV 88 design needs NAV 88 benchmarks, not NAV 29)
- All control irons/identified property irons shall be shown on plans, with BL stationing and offset
- Show deflection angles in BL, and/or bearing/azimuth of BL sections
- Arterial project side streets – provide BL station at CL of intersection of the two streets, on the BL; BL station and offset to CL of side street at removal limits; include deflection angle from BL to CL of side street
- Existing FL/pavement grades shown at all match points
- Top of curb grades and stationing at all ends-of-return and horizontal/vertical P.I.'s, not just even stationing
- CL top of pavement grades for arterial
- CL elevation for streets on mass grading work @ 100' Sta in tangent sections and 50' on curves.
- **ELEVATION SHALL BE TO TOP OF ROCK BASE.**
- BL station and offset at all R/W changes; include R/W corners at all intersections, even if no change in R/W
- Clearly show existing grades at R/W and beyond; identify removal limits beyond R/W (for grade purposes) with BL station and offset, or dimension from R/W
- Show offset distance between BL and proposed street CL when not the same; establish clear relationship between the two
- BL station and offset to center of signal poles, service and junction boxes, controllers, etc.
- BL station and offset to back of retaining walls, at ends of walls and all P.I.'s
- Concrete pavement – provide detailed joint pattern, dimensions, and elevations for all valley gutters, intersections, and mainline pavement; should be separate plan sheet(s) with clear and project-specific details
- Storm Sewer – BL station and offset for all curb inlets, drop inlets, manholes, and other structures (to the coordinate point locations detailed in previous sheets); same for SS and WL – pertinent facilities should be referenced to BL station and offset
- Sanitary Sewer – show deflection angles between MH's
- Flow line elevations for manhole stubs

- Curve Tables – should include bends, tees, valves, FH's etc. for waterlines; ends-of-return, P.I.'s, etc. for paving
- Should be able to accurately scale off of plans

**Attachment No. 3 to Exhibit "A" – CIP Scope of Services**

**Project Name**

**Utility Location Verification for ULCC Sub-Committee (Date)**

Field Check: ☐ Office Check: ☐

UTILITY: \_\_\_\_\_ Checked by \_\_\_\_\_ on \_\_\_\_\_

**Utility Location:**

- ☐ None in Project Limits ☐ In Project Limits, No Relocation Necessary  
☐ Utility will need to relocate ☐ Utility is located in Private Easement  
☐ Private Easement Documentation Attached  
☐ Utility will need to relocate and is interested in **proposed** ROW (IF applicable)

**Briefly Describe Type and Location of Facilities within Project:**

\_\_\_\_\_  
\_\_\_\_\_

Estimate Time for Relocation: ☐ < 3 months ☐ 3-6 months ☐ 6-9 months ☐ > 9 months

Weather Sensitive: ☐ Yes ☐ No If yes, please explain: \_\_\_\_\_

Factors prerequisite to or that could affect relocation process (i.e. Regulatory Requirements):

\_\_\_\_\_  
\_\_\_\_\_

**Utility Plan Review:**

☐ Correct as Shown ☐ Corrections needed ☐ Attachments provided for Consultant

Corrections necessary on plan sheets:

\_\_\_\_\_  
\_\_\_\_\_

Additional Information requested from Consultant: \_\_\_\_\_

\_\_\_\_\_

Utility Requests Paper Plans (choose one): ☐ Full Size ☐ Half Size ☐ Cross-Sections (Full Size)

**Please email this form on or before Date to:**

Project Engineer Consultant  
Company  
E-mail

Leshe Hicks  
City of Wichita  
lhicks@wichita.gov

**Attachment No. 4 to Exhibit "A" – CIP Scope of Services**

Individual Project Name (i.e., Amlidon, 21st to 29th Street North)												
Current Date	Improving, NY/ City Proj. NO	City Design Manager	Consultant	Date of First UICC	Date of Second UICC	Date of Plan Revision Distribution	Date of Second Plan Revision Distribution	R/W Purchased Y/N	Date transfer and/or of R/W completion	Project Proposed Mile Date	Proposed Utility Clear Date (project)	
2/21/2013	111111/ 222222	Kellynash	Pen Law/ Higgins & Hubert	2/21/2013	2/21/2013			No				
			Utility Contact	Utility needs to relocate (Y/N)	Utility in Private Easement (Y/N)			Utility needs relocated R/W to relocate (Y/N)	Relocation Weather Sensitivity (Y/N)	Estimated Date of Utility Design Completion	Time needed for relocation after utility design complete	Individual Utility Clear Date
<b>Westar (Distribution)</b>												
Location in Project: (Describe Existing Facilities)												
Relocation Needs:												
Comments:												
<b>Westar (Transmission)</b>												
Location in Project: (Describe Existing Facilities)												
Relocation Needs:												
Comments:												

Comments:	
Relocation Needs:	
Location in Project: (Describe Existing Facilities)	
ATA/Other:	
Comments:	
Relocation Needs:	
Location in Project: (Describe Existing Facilities)	
Black Hills:	
Comments:	
Relocation Needs:	
Location in Project: (Describe Existing Facilities)	
RES	

<b>Cos</b>
<b>Location in Project:</b> (Describe Existing Facilities)
<b>Relocation Needs:</b>
<b>Comments:</b>
<b>Water</b>
<b>Location in Project:</b> (Describe Existing Facilities)
<b>Relocation Needs:</b>
<b>Comments:</b>
<b>Sewer</b>
<b>Location in Project:</b> (Describe Existing Facilities)
<b>Relocation Needs:</b>
<b>Comments:</b>

Summary
Location in Project: (Describe Existing Facilities)
Relocation Needs:
Comments:
Other
Location in Project: (Describe Existing Facilities)
Relocation Needs:
Comments:



## **EXHIBIT "B"**

### **REVISED NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS**

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.
- B. Requirements of the State of Kansas:
  - 1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;
  - 2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";
  - 3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
  - 4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
  - 5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.
- C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:
  - 1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, up-grading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;
  - 2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;
  - 3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be

deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;

4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.
5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

AGREEMENT

for

PROFESSIONAL SERVICES

between

THE CITY OF WICHITA, KANSAS

and

BAUGHMAN COMPANY, P.A.

for

9<sup>TH</sup> STREET, I-135 TO HILLSIDE

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and BAUGHMAN COMPANY, P.A., party of the second part, hereinafter called the "ENGINEER".

WHEREAS, the CITY intends to construct;

9<sup>TH</sup> Street, I-135 to Hillside (Project No. 472-85283).

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. SCOPE OF SERVICES

The ENGINEER shall furnish professional services as required for designing paving improvements at 9<sup>th</sup> Street, I-135 to Hillside, and to perform the PROJECT tasks outlined in the SCOPE OF SERVICES (**Exhibit "A"**).

II. IN ADDITION, THE ENGINEER AGREES

- B. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in **Exhibit "A"**.
- C. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.
- D. To make available during regular office hours, all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this agreement.
- E. To save and hold CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.

- F. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY.
- G. To comply with all Federal, State and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply with the CITY'S Affirmative Action Program as set forth in Exhibit "B" which is attached hereto and adopted by reference as though fully set forth herein.
- H. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.
- I. To complete the services to be performed by ENGINEER within the time allotted for the PROJECT in accordance with Exhibit "A"; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond control of the ENGINEER.
- J. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ENGINEER under this agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by ENGINEER, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.
- K. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement. Such policy of insurance shall be in an amount not less than \$500,000.00 subject to a deductible of \$10,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

Workman's Compensation - Statutory  
Employer's Liability - \$500,000 each occurrence.

Further, a comprehensive general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER against all claims arising from injuries to persons (other than ENGINEER'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this agreement. The liability limit shall not be less than \$500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time ENGINEER starts any work under this agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.

- L. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s) designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this agreement. The ENGINEER shall also advise the CITY of any changes in the person designated Project Manager. Written notification shall be provided to the CITY for any changes exceeding one week in length of time.

### III. THE CITY AGREES:

- A. To furnish all available data pertaining to the PROJECT now in the CITY'S files at no cost to the ENGINEER. Confidential materials so furnished will be kept confidential by the ENGINEER.
- B. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ENGINEER, except as specified in Exhibit "A".
- C. To pay the ENGINEER for his services in accordance with the requirements of this agreement.

- D. To provide the right-of-entry for ENGINEER'S personnel in performing field surveys and inspections.
- E. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The CITY agrees to advise, the ENGINEER, in writing, of the person(s) designated as Project Manager with the issuance of the notice to proceed on the work required by this agreement. The CITY shall also advise the ENGINEER of any changes in the person(s) designated Project Manager. Written notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.
- F. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

IV. PAYMENT PROVISIONS

- A. Payment to the ENGINEER for the performance of the professional services required by this agreement shall be made on the basis of the not to exceed fee amount specified below:

**Project No. 472 85282 Concept Design                      \$ 25,000**

- B. *When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:*
  - 1. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the PROJECT.
  - 2. Additional design services not covered by the scope of this agreement.
  - 3. Construction staking, material testing, inspection and administration related to the PROJECT.
  - 4. A major change in the scope of services for the PROJECT.

If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.

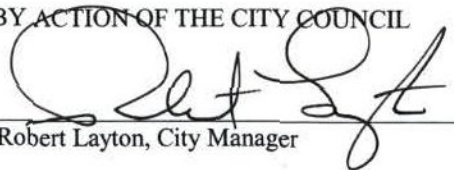
V. THE PARTIES HERETO MUTUALLY AGREE:

- A. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the ENGINEER'S inability to proceed with the work.
- B. That the field notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that CITY shall hold ENGINEER harmless from any and all claims, damages or causes of action which arise out of such further use when such further use is not in connection with the PROJECT.
- C. That the services to be performed by the ENGINEER under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.
- D. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by the CITY, provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefor.
- E. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.
- F. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement shall be construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.
- G. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.
- H. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this agreement as of the date first written above.



BY ACTION OF THE CITY COUNCIL

  
Robert Layton, City Manager

ATTEST:

  
cc:  Karen Sublett, City Clerk

APPROVED AS TO FORM:

  
Jennifer Magaña, Director of Law and  
City Attorney

BY ACTION OF THE CITY COUNCIL

\_\_\_\_\_  
Robert Layton, City Manager

BAUGHMAN COMPANY, P.A.

  
\_\_\_\_\_  
Tim Aziere  
Director of Transportation Engineering

## **EXHIBIT "A"**

### **SCOPE OF SERVICES**

#### **CAPITAL IMPROVEMENT PROGRAM (CIP) PROJECTS**

Upon award of this project the ENGINEER will contact utility companies directly and determine from the existing records the location of all utilities. Coordination with the utility companies involved will include a conceptual plan jointly developed with the utility company indicating the methods employed to resolve utility conflicts. The conceptual plan should include elements of designing around the utility, analysis of construction expense vs. design expense, and utility company expenses to resolve conflicts.

On projects that disturb one acre or more, the ENGINEER will prepare a storm water pollution prevention plan, prepare the necessary permit application(s) and include any provisions or requirements in the project plans and special provisions. The storm water pollution prevention plan shall also include submittal of a Notice of Intent (NOI) prior to bidding; site-specific erosion control plan; and standard Best Management Practice (BMP) detail sheets per Attachment No. 1 to Exhibit "A".

Associated improvements as part of these projects will include, when applicable: permanent traffic signalization system improvements, permanent traffic signing, permanent pavement markings, construction traffic control, construction phasing, incidental drainage, sidewalk, identification of additional right-of-way and furnishing tract drawings and legal descriptions for such right-of-way.

The ENGINEER shall furnish engineering services as required for the best and most cost effective design for the development of the project and provide project alternatives where applicable, including landscaping and beautification provisions on streets where appropriate in available right-of-way; the project plans; supplemental specifications; quantities of work; and estimates of the cost for the PROJECT in the format and detail required by the City Engineer for the City of Wichita; and the Kansas Department of Transportation (KDOT); and the U.S. Army Corps of Engineers, or any other regulatory agency, when applicable. The project alternatives, including proposed landscaping, are to be presented to the City's Design Council, when directed by the Design Engineer, for concurrence in selection prior to progressing to detailed aspects of the work. ENGINEER should use plant material that is drought resistant and requires low maintenance in a xeriscape concept, and is consistent with the City of Wichita Landscape Policy for Arterial Streets. A landscape architect should be included on the ENGINEER's Design Team.

The ENGINEER should identify all trees that may be in conflict or jeopardy of damage by construction activities and then review with Park Department to determine if the trees can be saved and/or moved. In addition, the ENGINEER will notify the City Archaeologist at 316-978-3195 prior to beginning work on this project.

All references below to KDOT only apply to State and Federal Aid projects.

**THIS IS NOT A STATE/FEDERAL AID CONTRACT.**

In connection with the services to be provided, the ENGINEER shall:

#### **A. PHASE 1 - PRELIMINARY CONCEPT DEVELOPMENT**

When authorized by the CITY and where applicable, proceed with development of Study and Alternative Concepts for the PROJECT in the detail deemed necessary to permit the preparation of preliminary and final plans for construction of the improvements based on the preliminary information provided to the ENGINEER.

1. Review Alternative Design Concepts. Review alternative design concepts with the City Engineer or his designated representative prior to progressing to detail aspects of the work. Alternative concepts as ascertained shall be reviewed and discussed with the City Engineer or his designated representative for concurrence in determining the best horizontal and vertical alignments for the PROJECT. CITY'S

concurrence in selection of an alternate or preliminary concept will be contingent on the accuracy and completeness of the background information provided by the ENGINEER used in the evaluation process.

2. Review Preliminary Design Concepts. Review preliminary design concepts with the City Engineer for the City of Wichita prior to progressing to detail aspects of the work. Preliminary design concepts shall be provided on a strip map suitable for presentation at public meetings as required by the City Engineer of the City of Wichita.
3. Drainage Study. When authorized, conduct a detailed study to explore alternative design concepts concerning drainage for the PROJECT. Present the findings in writing identifying recommendations to the CITY, including preliminary cost estimates, prior to development of field check plans. Such written findings and recommendations must be in a format which is self-explanatory and readily understood by persons with average backgrounds for the technology involved.
4. Preliminary Street and Storm Water Sewer Alignments and Profiles. Prepare preliminary street geometrics/alignments with proposed street and storm water sewer grades to conform to the drainage plan for the PROJECT. The drainage plan and computations shall be submitted along with one (1) set of preliminary street and storm water sewer profiles to the CITY for review and approval prior to proceeding with development of field check plans.
5. Preliminary Water Line and Sanitary Sewer Alignments and Profiles. Preliminary water and sanitary sewer alignments and grades are to be reviewed with the CITY by the ENGINEER for approval prior to proceeding to detail aspects of the work. The ENGINEER shall verify and coordinate work to be completed with the Public Works & Utilities Department.
6. Right-of-Way & Temporary Construction Easements. Identify permanent right-of-way and temporary construction easement requirements for the preliminary concepts developed. Such right-of-way and temporary construction easement requirements shall be provided on a strip map suitable for presentation at public meetings as required by the City Engineer.
7. Public Hearings. Assist the City in the conduct of a public hearing(s) on the proposed improvements for the PROJECT as necessary to inform the public, governmental agencies, and affected parties as to construction traffic control, construction sequence and methods, estimated time and duration of project construction, environmental assessment, right-of-way requirements, estimated project costs, etc. Provide adequate visual displays for public presentations and in electronic format for use in Power Point presentation.
8. S. I. & A. for Existing Bridges. For the duration of the project, the ENGINEER shall perform National Bridge Inventory (NBI) inspections as per the KDOT Bridge Inspection Manual in addition to load rating and updating the Structural Inventory and Appraisal (S. I. & A.) form for submittal to KDOT for all existing bridges within the project limits as per regular City inspection schedule.
9. Landscape Plans. When the design has fulfilled the program requirements, submit a PDF set of landscape plans to the CITY'S project manager. After the project manager approves the plans, he/she will submit the same to the Park Department for review and comments. When the Park Department has approved the plans, the ENGINEER may proceed with placing them on the Design Council agenda for review and comment, as directed by the CITY.
10. Design Council. As requested, ENGINEER shall meet with the City's Design Council to review the PROJECT design and interpret engineering drawings. The first presentation should be made at the point when the ENGINEER has arrived at a design which meets all of the functional requirements of the program and has been tentatively approved by the City staff person in charge. Before authorization is given to the ENGINEER to move on to design development, the PROJECT should be presented to the Design Council for review.

**B. PHASE II - PLAN DEVELOPMENT**

When authorized by the CITY, proceed with development of Plans for the PROJECT based on the preliminary design concepts approved by the CITY.

1. Design Council. As requested, ENGINEER shall meet with the City's Design Council to review the PROJECT design and interpret engineering drawings. The PROJECT should be presented when the design of the PROJECT has been perfected to the point where all design factors (shape, size, materials, colors, landscape, exterior relationship, amenities, etc.) have been decided and tentatively approved by staff. It is at this point that the design can be considered "frozen" and will not be changed.



except for unforeseen conditions, which may arise.

(It should be noted it is in the ENGINEER'S best interest to reach design freeze and gain aesthetic approval as early in the project as possible. Whereas the Design Council does not presume to tell the ENGINEER or staff when in the planning process design freeze should take place, the amount of time and effort which the ENGINEER has invested in the development of construction documents or other activities will not be taken into consideration by the Design Council at the Design Freeze review.)

2. **Field Check Plans.** When authorized by the CITY, prepare field check plans and a preliminary cost estimate for the PROJECT based on approved preliminary concepts as required by the CITY. ENGINEER to submit one copy of preliminary cost estimate and two (2) sets of field check plans to the CITY and one copy of preliminary cost estimate and one electronic set of field check plans to KDOT, to be uploaded to the KDOT FTP site. ENGINEER to participate in a field check of the PROJECT with the CITY and with KDOT when required. Major items of work included in development of field check plans are:

- (a) **Field Surveys.** Provide engineering and technical personnel and equipment to obtain survey data as required for the engineering design. Utility companies shall be requested to flag or otherwise locate their facilities within the PROJECT limits prior to the ENGINEER conducting the field survey for the PROJECT. Utility information shall be clearly noted and identified on the plans:

- (b) **Utility Coordination.** Identify all potential utility conflicts and provide preliminary field check plans showing the problem locations, posted to the City's FTP site. **Plans will clearly identify specific utility company facilities by color and by name (i.e. not just "gas" or "fiber optic").** ENGINEER shall include a conflict list for each utility, also posted to the FTP site. ENGINEER shall meet with utility company representatives to review plans and utility verification forms (**Attachment No. 3 to Exhibit "A"**) at each milestone date and as directed by the CITY and as determined necessary by the ENGINEER. This information will be compiled into a summary report (**Attachment No. 4 to Exhibit "A"**) maintained and updated by ENGINEER as necessary to present a cohesive and reflective status of utilities, and provided to the City as necessary. **ENGINEER shall maintain involvement with utility companies until all conflicts have been resolved (not just identified).** When appropriate, the City Engineer will approve the identification on plans of conflicts to be resolved during construction. ENGINEER shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction.

- (c) **Soils and Foundation Investigations.** The CITY may authorize ENGINEER to direct an approved Testing Laboratory to perform subsurface borings and soils investigations for the PROJECT, which shall be reported in the format and detail required by the City Engineer for the City of Wichita. The Testing Laboratory shall be responsible for the accuracy and competence of their work. The ENGINEER'S contract with the Testing Laboratory shall provide that the Testing Laboratory is responsible to the City for the accuracy and competence of the Testing Laboratory's work. If required the cost of soils and boring investigations shall be prepared as a supplemental agreement between City of Wichita and the ENGINEER. This may be required for bridges, structures, retaining walls and other locations.

- (d) **Property Acquisitions.** Prepare right-of-way/easement tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions. ENGINEER will perform all necessary survey work associated with marking the additional right-of-way or easements. This shall include the permanent monumentation of new corners for any additional right-of-way and a one-time marking of all the right-of-way for utility relocations at a time directed by the CITY. **The ENGINEER shall perform all necessary title work and sufficient research for determination of current right-of-way and easements.**

- (e) **Temporary Construction Easements.** Prepare legal descriptions for Temporary Construction Easements (TCE) for all parcels where the construction limits extend beyond the existing/proposed right-of-way; and submit tract maps to the City that are suitable for mailing to property owners. The tract maps should include all features shown on the plans, including but not limited to structures, trees, fences, signs, monuments, etc, and should indicate if such items will be impacted within the required easement. Incorporate TCE limits on the plans.

- (f) **ENGINEER shall provide a clearly defined list of known encroachments into the existing right-of-way, including but not limited to structures, fences, planters, walls, etc.** The list shall be in tabular form and include the property address and owner information, approximate baseline station of the encroachment, and nature/description of the same.
- (g) **ENGINEER shall provide a list of proposed driveway closures, relocations or other changes.** The list shall be in tabular form and include the property address and owner information, approximate baseline station of the approach, and nature/description of the same.
3. **Office Check Plans.** When authorized by the CITY prepare office check plans for the PROJECT based upon comments as agreed upon in field check review. Major items of work included in development of office check plans are:
- (a) **Plan Submittal.** Submit two (2) sets of office check plans to the CITY, with one copy of supplemental specifications and one copy of cost estimates and quantities of work units of the PROJECT for office check. (Cost estimates to be based on current unit prices for similar work in the Wichita area unless otherwise directed by the CITY.) Field check plans marked with CITY and/or KDOT comments are to be returned to the CITY with office check plan submittals. ENGINEER to participate in an office check of the PROJECT with the CITY and KDOT when required.
- (b) **Utility Coordination.** Identify all potential utility conflicts and provide preliminary office check plans showing the problem locations, posted to the City's FTP site. **Plans will clearly identify specific utility company facilities by color and by name (i.e. not just "gas" or "fiber optic").** ENGINEER shall include a conflict list for each utility, also posted to the FTP site. ENGINEER shall meet with utility company representatives to review plans and utility verification forms (**Attachment No. 3 to Exhibit "A"**) at each milestone date and as directed by the CITY and as determined necessary by the ENGINEER. This information will be compiled into a summary report (**Attachment No. 4 to Exhibit "A" also available on the City's FTP site**) maintained and updated by ENGINEER as necessary to present a cohesive and reflective status of utilities, and provided to the City as necessary. **ENGINEER shall maintain involvement with utility companies until all conflicts have been resolved (not just identified).** When appropriate, the City Engineer will approve the identification on plans of conflicts to be resolved during construction. ENGINEER shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction.
- (c) **Plan Requirements.** Office check plans shall include traffic signalization details, traffic signing details, pavement marking details, incidental drainage, construction phasing details (when applicable), construction traffic control details, and all other necessary construction details required for the PROJECT. The PROJECT'S plans and proposed special provisions shall address the requirements included in the City's Administrative Regulation 6.5, "Cleanup, Restoration or Replacement Following Construction."
- (d) **Permits.** The ENGINEER shall prepare any and all necessary permits for this PROJECT, such as the preparation of applications for U.S. Army Corps of Engineers (404) permits, Division of Water Resources permit, Kansas Department of Wildlife and Parks permit and Kansas Department of Health and Environment permit. Also if requested by the CITY, obtain construction approval from the U.S. Army Corps of Engineers and assist the CITY in coordinating the archaeological review of the PROJECT. **The ENGINEER shall be responsible for the cost of all permit fees that are required to complete the PROJECT. The cost shall be included in the design fee submitted by the ENGINEER.**
4. **Project Milestones.** The ENGINEER agrees to complete and deliver the field notes, preliminary and final plans, specifications and estimates to the CITY within the time allotted for the project as stipulated below; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond the control of the ENGINEER.
- Concept Design for the project due by June 6, 2016.**
- Field Check Plans and an estimate for the project due by September 12, 2016.**
- Office Check Plans and an estimate for the project due by December 5, 2016.**
- Completion of all work required by this agreement (including submittal of final approved plans, field notes, and related project documents by January 15, 2017.**

5. **Final Plans.** When authorized by the CITY prepare final plans for the PROJECT based upon comments as agreed upon as a result of the office check review. Major items of work included in development of final plans are:
- (a) Prepare engineering plans (which shall include construction sequencing and traffic control), supplemental specifications, special provisions and construction cost estimates, or estimates of the quantities of work for the PROJECT.
  - (b) Final Plan Submittals. Final plans, field notes and other pertinent project mapping records are to be submitted per Attachment No. 1 to Exhibit "A".
  - (c) Technical construction specifications shall in general follow the City of Wichita's Standard Specifications and/or KDOT Standard Specifications supplemented as necessary to suit PROJECT requirements. Plan profile sheets shall also be required for water distribution system/water supply line improvements.
  - (d) ENGINEER shall provide a clearly defined list of known encroachments into the existing right-of-way, including but not limited to structures, fences, planters, walls, etc. The list shall be in tabular form and include the property address and owner information, approximate baseline station of the encroachment, and nature/description of the same. The list of encroachments should reflect conditions at the time of final plan submittal.
  - (e) ENGINEER shall provide a list proposed driveway closures, relocations or other changes. The list shall be in tabular form and include the property address and owner information, approximate baseline station of the approach, and nature/description of the same.
  - (f) Engineer's cost estimate information shall be submitted in tabular form and on a unit cost basis, as approved by the CITY and as required by KDOT. Pay items of work shall conform to the CITY's Master Bid Item List.
  - (g) Final plans when submitted shall be complete and ready for reproducing for distribution to prospective bidders.
  - (h) All applicable coordinate control points and related project staking information shall be furnished on the plans in the form of a bubble map, as well as on a CD-ROM in a text format agreed upon by the CITY. This coordinate information will be used by the CITY for construction staking purposes. See Attachment No. 2 to Exhibit "A" for required coordinate information.
  - (i) The date identified as the date of CITY acceptance of final plans and other supplementary work will be that date upon which the City Engineer ascertains that such plans and work are in accordance with all provisions of the contract for design services.
  - (j) ENGINEER shall provide the CITY with electronic files suitable for power point presentations to the Design Council and City Council.
6. **Staking and Inspection** If requested by the CITY, the ENGINEER will enter into a Supplemental Agreement to complete construction staking, material testing, inspection and administration related to the PROJECT.
7. **Post Letting.**
- (a) All shop drawings submitted by the contractor for the PROJECT shall be reviewed and, when acceptable, approved for construction by the ENGINEER for the PROJECT.
  - (b) The ENGINEER shall meet with effected property owners, along with City staff, at a pre-construction Public Information Meeting, as arranged by the City, to explain project design, including such issues as construction phasing and traffic control.
  - (c) New Right-of-Way Monumentation. The Engineer shall complete permanent monumentation of all new R/W after project completion, complete and submit all necessary legal documentation for same.
  - (d) Section Corner Monuments. The Engineer shall provide services required by KSA Chapter 58, Article 20, Statute 58-2011, any time a section corner or monument will be endangered, disturbed, or removed. The City of Wichita Construction Engineer will receive a copy of all Land Survey Reference Reports submitted to the Secretary of State Historical Society. All costs associated with this effort shall be the responsibility of the Engineer. The City will provide a three business day notice to the Engineer to mark the monument location for re-establishment after

pavement work is completed. The City will then core and install a cast iron monument box and cover. The Engineer will be notified within three business days after the box is installed to reset the final monument.

(e) **S. I. & A. for Bridges.** Upon completion of any and all bridge construction, the ENGINEER shall perform the National Bridge Inventory (NBI) inspection as per KDOT Bridge Inspection Manual, in addition to load rating and updating the Structural Inventory and Appraisal (S. I. & A.) form and completing the Item 113 Justification Form for the new bridges if applicable for submittal to KDOT for all bridges within the project limits regardless of initial structure size.

## **Attachment No. 1 to Exhibit "A" – CIP Scope of Services**

### **Plan Submittal**

Water projects plans shall be submitted with (1) set of mylar plans; and a CD of the .dwgs and .pdfs. This includes projects that have the water plans incorporated into that project, for which the cover sheet should also be included.

Storm Sewer, Sanitary Sewer and Paving plans shall be submitted in a .dwg and .pdf format on a CD.

In addition, two (2) sets of 11"x17" plans will be submitted at the time of final .pdf submittal for ALL projects, regardless of the type.

### **Storm Water Pollution Prevention**

For any project disturbing one acre of ground or more, the design Consultant must prepare a Notice of Intent and a Storm Water Pollution Prevention Plan and submit them to the KDHE for approval. Complete copies of the approved NOI and SWP3 must be provided to the City. One hard copy should be provided to the project engineer upon approval, one electronic copy should be included with your transmittal of PDF plan files, and one additional electronic copy should be sent to the attention of Mark Hall at the following address:

City of Wichita  
Storm Water  
455 N. Main 8<sup>th</sup> Floor  
Wichita, KS 67202

**THIS INCLUDES ALL PROJECTS DISTURBING ONE ACRE OR MORE – I.E. NEW DEVELOPMENT, ARTERIAL STREETS, DIRT STREETS, BIKE PATHS, SEWER MAINS, ETC.**

The City of Wichita will, under no circumstance, bid any project without first receiving copies of the KDHE approved NOI and SWP3.

The design of all City of Wichita construction projects must include the development of a site-specific erosion control plan. The site-specific erosion control plan must be included in the project plans. Every component and requirement of the erosion control plan must be separately and accurately accounted as a measured quantity bid item in the engineer's estimate.

Please note that careful consideration must be given to the transition of BMP maintenance responsibilities throughout the course of multi-phased projects. All intended responsibilities must be clearly demonstrated by the bid items. For example, if it is intended that the contractor of a subsequent waterline project be responsible for the maintenance of silt fence installed with a preceding sanitary sewer project, a measured quantity bid item must be submitted for x-lf of silt fence maintenance.

The City's current BMP standard detail sheets shall be included in all plans. These five sheets must be included in every plan set developed for the City of Wichita, regardless of project size.

## **Attachment No. 2 to Exhibit "A" – CIP Scope of Services**

### **Required Plan Coordinate Information**

#### **Arterial Street Projects & Infill (Existing Neighborhoods)**

##### **I. SANITARY SEWER**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments
- benchmarks, including TBM set with preliminary survey
- center of manholes
- end of manhole stubs (when longer than five feet)

##### **II. WATER LINE**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point; for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments; any necessary points for establishing BL, including P.I.'s in BL
- benchmarks, including TBM set with preliminary survey
- beginning and ends of pipe
- all P.I.'s/deflections (horizontal and vertical)
- FH's, tees, bends, air release, valves

##### **III. STORM SEWER**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments; any necessary points for establishing BL, including P.I.'s in BL
- benchmarks, including TBM set with preliminary survey
- center of inside face on Type 1/1A curb inlets; center of high edge on Type 2 curb inlets
- for skewed inlets typically in intersection radii, or not parallel to baseline – center of curb inlet AND center of inside face on Type 1/1A curb inlets; center of high edge on Type 2 curb inlets
- end of end section, at CL of pipe
- center, end of pipe at outside face of headwall; if headwall not perpendicular to pipe, each corner of headwall at outside face
- center of all drop inlets, manholes, and other structures
- center of RCBC at each end (outside face of hubguard); if box rotated, each corner, outside face

##### **IV. PAVING**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments; any necessary points for establishing BL, including P.I.'s in BL
- benchmarks, including TBM set with preliminary survey
- center of signal poles, service and junction boxes, controller, etc.; ends and P.I.'s for retaining walls, at back of walls

**THE SAME COORDINATE SYSTEM SHALL BE USED FOR ALL SEPARATE PHASES OF A LARGER INFILL OR ARTERIAL STREET PROJECT.**

**Sub-Division Projects**

**I. SANITARY SEWER**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey
- center of manholes
- back and/or front lot corners for specifically referenced easement grading, outside that included in mass grading projects; include coordinates for vertical P.I. locations not at lot corners
- end of manhole stubs (when longer than five feet)

**II. WATER DISTRIBUTION SYSTEM**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey
- beginning and ends of pipe
- all P.I.'s/deflections (horizontal and vertical)
- FH's, tees, bends, air release, valves

**III. WATER SUPPLY LINE**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments; any necessary points for establishing BL; including P.I.'s in BL
- benchmarks, including TBM set with preliminary survey
- beginning and ends of pipe
- all P.I.'s/deflections (horizontal and vertical)
- FH's, tees, bends, air release, valves

**IV. STORM SEWER**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey
- center of inside face on Type 1/1A curb inlets; center of high edge on Type 2 curb inlets
- for skewed inlets typically in intersection radii, or not parallel to baseline – center of curb inlet AND center of inside face on Type 1/1A curb inlets; center of high edge on Type 2 curb inlets
- end of end section, at CL of pipe
- center, end of pipe at outside face of headwall; if headwall not perpendicular to pipe, each corner of headwall at outside face
- center of all drop inlets, manholes, and other structures
- center of RCBC at each end (outside face of hubguard); if box rotated, each corner, outside face

**V. MASS GRADING**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey
- all lot corners
- any grade breaks between front & rear lot corners
- high points/low points within drainage easements
- street area
  - centerline @ 100' Sta on tangent sections
  - pc/pt points & 50' along curves
- special drainage swales
  - pc/pt points, pi's & 50' Sta in between
- ponds
  - any grades breaks between pond bottom and rear property line
  - pc/mid radius/pt around pond curves
- for irregular shaped lots (mainly commercial or industrial developments) provide TIN file.

## VI. PAVING

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey

**In addition to the required coordinate information, the following shall be included in all plans, at a minimum, as needed for construction staking on all City projects.**

- Include copy of plat(s) on all plans, as relevant and approved by the Design Engineer
- Benchmarks – minimum of two City standards, four total desirable; as close to project as possible, even if TBM set with preliminary survey.
- Benchmark elevations must be in the same datum as the design (i.e. NAV 88 design needs NAV 88 benchmarks, not NAV 29)
- All control irons/identified property irons shall be shown on plans, with BL stationing and offset
- Show deflection angles in BL, and/or bearing/azimuth of BL sections
- Arterial project side streets – provide BL station at CL of intersection of the two streets, on the BL; BL station and offset to CL of side street at removal limits; include deflection angle from BL to CL of side street
- Existing FL/pavement grades shown at all match points
- Top of curb grades and stationing at all ends-of-return and horizontal/vertical P.I.'s, not just even stationing
- CL top of pavement grades for arterial
- CL elevation for streets on mass grading work @ 100' Sta in tangent sections and 50' on curves.
- **ELEVATION SHALL BE TO TOP OF ROCK BASE.**
- BL station and offset at all R/W changes; include R/W corners at all intersections, even if no change in R/W
- Clearly show existing grades at R/W and beyond; identify removal limits beyond R/W (for grade purposes) with BL station and offset, or dimension from R/W
- Show offset distance between BL and proposed street CL when not the same; establish clear relationship between the two
- BL station and offset to center of signal poles, service and junction boxes, controllers, etc..
- BL station and offset to back of retaining walls, at ends of walls and all P.I.'s
- Concrete pavement – provide detailed joint pattern, dimensions, and elevations for all valley gutters, intersections, and mainline pavement; should be separate plan sheet(s) with clear and project-specific details
- Storm Sewer – BL station and offset for all curb inlets, drop inlets, manholes, and other structures (to the coordinate point locations detailed in previous sheets); same for SS and WL – pertinent facilities should be referenced to BL station and offset
- Sanitary Sewer – show deflection angles between MH's
- Flow line elevations for manhole stubs



- **Curve Tables** — should include bends, tees, valves, FH's etc. for waterlines; ends-of-return, P.I.'s, etc. for paving
- Should be able to accurately scale off of plans

**Attachment No. 3 to Exhibit "A" – CIP Scope of Services**

**Project Name**

**Utility Location Verification for ULCC Sub-Committee (Date)**

**Field Check:** ☐ **Office Check:** ☐

**UTILITY:** \_\_\_\_\_ **Checked by** \_\_\_\_\_ **on** \_\_\_\_\_

**Utility Location:**

- |   |   |
|---|---|
| <input type="checkbox"/> None in Project Limits   | <input type="checkbox"/> In Project Limits, No Relocation Necessary |
| <input type="checkbox"/> Utility will need to relocate  | <input type="checkbox"/> Utility is located in Private Easement     |
| <input type="checkbox"/> Utility will need to relocate and is interested in <u>proposed</u> ROW (IF applicable) | <input type="checkbox"/> Private Easement Documentation Attached    |

**Briefly Describe Type and Location of Facilities within Project:**

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**Estimate Time for Relocation:** ☐ < 3 months ☐ 3-6 months ☐ 6-9 months ☐ > 9 months

**Weather Sensitive:** ☐ Yes ☐ No If yes, please explain: \_\_\_\_\_

**Factors prerequisite to or that could affect relocation process (i.e. Regulatory Requirements):**

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**Utility Plan Review:**

☐ Correct as Shown ☐ Corrections needed ☐ Attachments provided for Consultant

**Corrections necessary on plan sheets:**

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**Additional Information requested from Consultant:** \_\_\_\_\_

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**Utility Requests Paper Plans (choose one):** ☐ Full Size ☐ Half Size ☐ Cross-Sections (Full Size)

**Please email this form on or before Date to:**

Project Engineer Consultant  
Company  
E-mail

Leslie Hicks  
City of Wichita  
lhicks@wichita.gov

**Attachment No. 4 to Exhibit "A" – CIP Scope of Services**

Individual Project Name (i.e., Arvidson, 21st to 29th Street North)											
Client Date	Issued For City/Reg. No.	City Design Manager	Consultant	Date of Work Order	Initial Schedule Date	Initial Schedule	Initial Schedule	Initial Schedule	Initial Schedule	Initial Schedule	Initial Schedule
2/21/2013	111111	111111	111111	11/11/11	11/11/11						
				Utility Needs to Relocate	Utility Needs to Relocate	Utility Needs to Relocate	Utility Needs to Relocate	Utility Needs to Relocate	Utility Needs to Relocate	Utility Needs to Relocate	Utility Needs to Relocate
				Utility Needs to Relocate	Utility Needs to Relocate	Utility Needs to Relocate	Utility Needs to Relocate	Utility Needs to Relocate	Utility Needs to Relocate	Utility Needs to Relocate	Utility Needs to Relocate
<b>Wester (Distribution)</b>											
Location in Project: (Describe Existing Facilities)											
Relocation Needs:											
Comments:											
<b>Wester (Transmission)</b>											
Location in Project: (Describe Existing Facilities)											
Relocation Needs:											
Comments:											

<p><b>RGS</b></p> <p><b>Location in Project:</b> (Describe Existing Facilities)</p> <p><b>Relocation Needs:</b></p> <p><b>Comments:</b></p>
<p><b>Blank HHS</b></p> <p><b>Location in Project:</b> (Describe Existing Facilities)</p> <p><b>Relocation Needs:</b></p> <p><b>Comments:</b></p>
<p><b>AT&amp;T</b></p> <p><b>Location in Project:</b> (Describe Existing Facilities)</p> <p><b>Relocation Needs:</b></p> <p><b>Comments:</b></p>

City	
Location in Project: (Describe Existing Facilities)	
Relocation Needs:	
Comments:	
Water	
Location in Project: (Describe Existing Facilities)	
Relocation Needs:	
Comments:	
Sewer	
Location in Project: (Describe Existing Facilities)	
Relocation Needs:	
Comments:	

Summary:
Location in Project: (Describe Existing Facilities)
Relocation Needs:
Comments:
Other:
Location in Project: (Describe Existing Facilities)
Relocation Needs:
Comments:

## **EXHIBIT "B"**

### **REVISED NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS**

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.
- B. Requirements of the State of Kansas:
  - 1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;
  - 2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";
  - 3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
  - 4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
  - 5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.
- C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:
  - 1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;
  - 2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;
  - 3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports

to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;

4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.
5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.



AGREEMENT

for

PROFESSIONAL SERVICES

between

THE CITY OF WICHITA, KANSAS

and

MKEC ENGINEERING, INC.

for

HILLSIDE AND MT. VERNON

THIS AGREEMENT, made this 29 day of February, 2016, by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and MKEC ENGINEERING, INC., party of the second part, hereinafter called the "ENGINEER".

WHEREAS, the CITY intends to construct;

Hillside and Mt. Vernon (Project No. 472-85286).

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. SCOPE OF SERVICES

The ENGINEER shall furnish professional services as required for designing paving improvements for the Hillside and Mt. Vernon and to perform the PROJECT tasks outlined in the SCOPE OF SERVICES (Exhibit "A").

II. IN ADDITION, THE ENGINEER AGREES

- B. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in Exhibit "A".
- C. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.
- D. To make available during regular office hours, all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this agreement.
- E. To save and hold CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.

- F. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY.
- G. To comply with all Federal, State and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply with the CITY'S Affirmative Action Program as set forth in Exhibit "B" which is attached hereto and adopted by reference as though fully set forth herein.
- H. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.
- I. To complete the services to be performed by ENGINEER within the time allotted for the PROJECT in accordance with Exhibit "A"; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond control of the ENGINEER.
- J. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ENGINEER under this agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by ENGINEER, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.
- K. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement. Such policy of insurance shall be in an amount not less than \$500,000.00 subject to a deductible of \$10,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

Workman's Compensation - Statutory  
Employer's Liability - \$500,000 each occurrence.

Further, a comprehensive general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER against all claims arising from injuries to persons (other than ENGINEER'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this agreement. The liability limit shall not be less than \$500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time ENGINEER starts any work under this agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.

- L. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s) designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this agreement. The ENGINEER shall also advise the CITY of any changes in the person designated Project Manager. Written notification shall be provided to the CITY for any changes exceeding one week in length of time.

### III. THE CITY AGREES:

- A. To furnish all available data pertaining to the PROJECT now in the CITY'S files at no cost to the ENGINEER. Confidential materials so furnished will be kept confidential by the ENGINEER.
- B. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ENGINEER, except as specified in Exhibit "A".
- C. To pay the ENGINEER for his services in accordance with the requirements of this agreement.

- D. To provide the right-of-entry for ENGINEER'S personnel in performing field surveys and inspections.
- E. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The CITY agrees to advise, the ENGINEER, in writing, of the person(s) designated as Project Manager with the issuance of the notice to proceed on the work required by this agreement. The CITY shall also advise the ENGINEER of any changes in the person(s) designated Project Manager. Written notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.
- F. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

IV. PAYMENT PROVISIONS

- A. Payment to the ENGINEER for the performance of the professional services required by this agreement shall be made on the basis of the not to exceed fee amount specified below:

**Project No. 472 85286 Concept Design                      \$ 30,000**

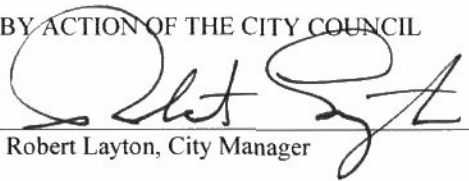
- B. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:
  - 1. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the PROJECT.
  - 2. Additional design services not covered by the scope of this agreement.
  - 3. Construction staking, material testing, inspection and administration related to the PROJECT.
  - 4. A major change in the scope of services for the PROJECT.
 If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.

V. THE PARTIES HERETO MUTUALLY AGREE:

- A. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the ENGINEER'S inability to proceed with the work.
- B. That the field notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that CITY shall hold ENGINEER harmless from any and all claims, damages or causes of action which arise out of such further use when such further use is not in connection with the PROJECT.
- C. That the services to be performed by the ENGINEER under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.
- D. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by the CITY, provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefor.
- E. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.
- F. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement shall be construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.
- G. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.
- H. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this agreement as of the date first written above.

BY ACTION OF THE CITY COUNCIL

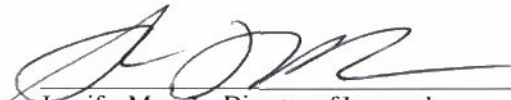
  
Robert Layton, City Manager



ATTEST:

  
Karen Sublett, City Clerk

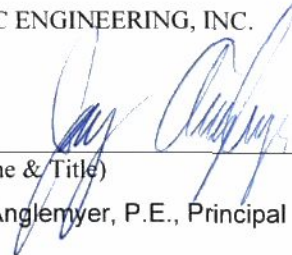
APPROVED AS TO FORM:

  
Jennifer Magaña, Director of Law and  
City Attorney

BY ACTION OF THE CITY COUNCIL

\_\_\_\_\_  
Jeff Longwell, Mayor

MKEC ENGINEERING, INC.

  
\_\_\_\_\_  
(Name & Title)

Jay Anglemeyer, P.E., Principal

## EXHIBIT "A"

### SCOPE OF SERVICES

#### CAPITAL IMPROVEMENT PROGRAM (CIP) PROJECTS

Upon award of this project the ENGINEER will contact utility companies directly and determine from the existing records the location of all utilities. Coordination with the utility companies involved will include a conceptual plan *jointly developed with the utility company* indicating the methods employed to resolve utility conflicts. The conceptual plan should include elements of designing around the utility, analysis of construction expense vs. design expense, and utility company expenses to resolve conflicts.

On projects that disturb one acre or more, the ENGINEER will prepare a storm water pollution prevention plan, prepare the necessary permit application(s) and include any provisions or requirements in the project plans and special provisions. The storm water pollution prevention plan shall also include submittal of a Notice of Intent (NOI) prior to bidding; site-specific erosion control plan; and standard Best Management Practice (BMP) detail sheets per Attachment No. 1 to Exhibit "A".

Associated improvements as part of these projects will include, when applicable: permanent traffic signalization system improvements, permanent traffic signing, permanent pavement markings, construction traffic control, construction phasing, incidental drainage, sidewalk, identification of additional right-of-way and furnishing tract drawings and legal descriptions for such right-of-way.

The ENGINEER shall furnish engineering services as required for the best and most cost effective design for the development of the project and provide project alternatives where applicable, including landscaping and beautification provisions on streets where appropriate in available right-of-way; the project plans; supplemental specifications; quantities of work; and estimates of the cost for the PROJECT in the format and detail required by the City Engineer for the City of Wichita; and the Kansas Department of Transportation (KDOT); and the U.S. Army Corps of Engineers, or any other regulatory agency, when applicable. The project alternatives, including proposed landscaping, are to be presented to the City's Design Council, when directed by the Design Engineer, for concurrence in selection prior to progressing to detailed aspects of the work. ENGINEER should use plant material that is drought resistant and requires low maintenance in a xeriscape concept, and is consistent with the City of Wichita Landscape Policy for Arterial Streets. A landscape architect should be included on the ENGINEER's Design Team.

The ENGINEER should identify all trees that may be in conflict or jeopardy of damage by construction activities and then review with Park Department to determine if the trees can be saved and/or moved. In addition, the ENGINEER will notify the City Archaeologist at 316-978-3195 prior to beginning work on this project.

All references below to KDOT only apply to State and Federal Aid projects.

THIS IS NOT A STATE/FEDERAL AID CONTRACT.

In connection with the services to be provided, the ENGINEER shall:

#### A. PHASE I - PRELIMINARY CONCEPT DEVELOPMENT

When authorized by the CITY and where applicable, proceed with development of Study and Alternative Concepts for the PROJECT in the detail deemed necessary to permit the preparation of preliminary and final plans for construction of the improvements based on the preliminary information provided to the ENGINEER.

1. Review Alternative Design Concepts. Review alternative design concepts with the City Engineer or his designated representative prior to progressing to detail aspects of the work. Alternative concepts as ascertained shall be reviewed and discussed with the City Engineer or his designated representative for concurrence in determining the best horizontal and vertical alignments for the PROJECT. CITY'S

concurrence in selection of an alternate or preliminary concept will be contingent on the accuracy and completeness of the background information provided by the ENGINEER used in the evaluation process.

2. Review Preliminary Design Concepts. Review preliminary design concepts with the City Engineer for the City of Wichita prior to progressing to detail aspects of the work. Preliminary design concepts shall be provided on a strip map suitable for presentation at public meetings as required by the City Engineer of the City of Wichita.
3. Drainage Study. When authorized, conduct a detailed study to explore alternative design concepts concerning drainage for the PROJECT. Present the findings in writing identifying recommendations to the CITY, including preliminary cost estimates, prior to development of field check plans. Such written findings and recommendations must be in a format which is self-explanatory and readily understood by persons with average backgrounds for the technology involved.
4. Preliminary Street and Storm Water Sewer Alignments and Profiles. Prepare preliminary street geometrics/alignments with proposed street and storm water sewer grades to conform to the drainage plan for the PROJECT. The drainage plan and computations shall be submitted along with one (1) set of preliminary street and storm water sewer profiles to the CITY for review and approval prior to proceeding with development of field check plans.
5. Preliminary Water Line and Sanitary Sewer Alignments and Profiles. Preliminary water and sanitary sewer alignments and grades are to be reviewed with the CITY by the ENGINEER for approval prior to proceeding to detail aspects of the work. The ENGINEER shall verify and coordinate work to be completed with the Public Works & Utilities Department.
6. Right-of-Way & Temporary Construction Easements. Identify permanent right-of-way and temporary construction easement requirements for the preliminary concepts developed. Such right-of-way and temporary construction easement requirements shall be provided on a strip map suitable for presentation at public meetings as required by the City Engineer.
7. Public Hearings. Assist the City in the conduct of a public hearing(s) on the proposed improvements for the PROJECT as necessary to inform the public, governmental agencies, and affected parties as to construction traffic control, construction sequence and methods, estimated time and duration of project construction, environmental assessment, right-of-way requirements, estimated project costs, etc. Provide adequate visual displays for public presentations and in electronic format for use in Power Point presentation.
8. S. I. & A. for Existing Bridges. For the duration of the project, the ENGINEER shall perform National Bridge Inventory (NBI) inspections as per the KDOT Bridge Inspection Manual in addition to load rating and updating the Structural Inventory and Appraisal (S. I. & A.) form for submittal to KDOT for all existing bridges within the project limits as per regular City inspection schedule.
9. Landscape Plans. When the design has fulfilled the program requirements, submit a PDF set of landscape plans to the CITY'S project manager. After the project manager approves the plans, he/she will submit the same to the Park Department for review and comments. When the Park Department has approved the plans, the ENGINEER may proceed with placing them on the Design Council agenda for review and comment, as directed by the CITY.
10. Design Council. As requested, ENGINEER shall meet with the City's Design Council to review the PROJECT design and interpret engineering drawings. The first presentation should be made at the point when the ENGINEER has arrived at a design which meets all of the functional requirements of the program and has been tentatively approved by the City staff person in charge. Before authorization is given to the ENGINEER to move on to design development, the PROJECT should be presented to the Design Council for review.

#### B. PHASE II - PLAN DEVELOPMENT

When authorized by the CITY, proceed with development of Plans for the PROJECT based on the preliminary design concepts approved by the CITY.

1. Design Council. As requested, ENGINEER shall meet with the City's Design Council to review the PROJECT design and interpret engineering drawings. The PROJECT should be presented when the design of the PROJECT has been perfected to the point where all design factors (shape, size, materials, colors, landscape, exterior relationship, amenities, etc.) have been decided and tentatively approved by staff. It is at this point that the design can be considered "frozen" and will not be changed

except for unforeseen conditions, which may arise.

(It should be noted it is in the ENGINEER'S best interest to reach design freeze and gain aesthetic approval as early in the project as possible. Whereas the Design Council does not presume to tell the ENGINEER or staff when in the planning process design freeze should take place, the amount of time and effort which the ENGINEER has invested in the development of construction documents or other activities will not be taken into consideration by the Design Council at the Design Freeze review.)

2. Field Check Plans. When authorized by the CITY, prepare field check plans and a preliminary cost estimate for the PROJECT based on approved preliminary concepts as required by the CITY. ENGINEER to submit one copy of preliminary cost estimate and two (2) sets of field check plans to the CITY and one copy of preliminary cost estimate and one electronic set of field check plans to KDOT, to be uploaded to the KDOT FTP site. ENGINEER to participate in a field check of the PROJECT with the CITY and with KDOT when required. Major items of work included in development of field check plans are:

- (a) Field Surveys. Provide engineering and technical personnel and equipment to obtain survey data as required for the engineering design. Utility companies shall be requested to flag or otherwise locate their facilities within the PROJECT limits prior to the ENGINEER conducting the field survey for the PROJECT. Utility information shall be clearly noted and identified on the plans.

- (b) Utility Coordination. Identify all potential utility conflicts and provide preliminary field check plans showing the problem locations, posted to the City's FTP site. **Plans will clearly identify specific utility company facilities by color and by name (i.e. not just "gas" or "fiber optic").** ENGINEER shall include a conflict list for each utility, also posted to the FTP site. ENGINEER shall meet with utility company representatives to review plans and utility verification forms (**Attachment No. 3 to Exhibit "A"**) at each milestone date and as directed by the CITY and as determined necessary by the ENGINEER. This information will be compiled into a summary report (**Attachment No. 4 to Exhibit "A"**) maintained and updated by ENGINEER as necessary to present a cohesive and reflective status of utilities, and provided to the City as necessary. **ENGINEER shall maintain involvement with utility companies until all conflicts have been resolved (not just identified).** When appropriate, the City Engineer will approve the identification on plans of conflicts to be resolved during construction. ENGINEER shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction.

- (c) Soils and Foundation Investigations. The CITY may authorize ENGINEER to direct an approved Testing Laboratory to perform subsurface borings and soils investigations for the PROJECT, which shall be reported in the format and detail required by the City Engineer for the City of Wichita. The Testing Laboratory shall be responsible for the accuracy and competence of their work. The ENGINEER'S contract with the Testing Laboratory shall provide that the Testing Laboratory is responsible to the City for the accuracy and competence of the Testing Laboratory's work. If required the cost of soils and boring investigations shall be prepared as a supplemental agreement between City of Wichita and the ENGINEER. This may be required for bridges, structures, retaining walls and other locations.

- (d) Property Acquisitions. Prepare right-of-way/easement tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions. ENGINEER will perform all necessary survey work associated with marking the additional right-of-way or easements. This shall include the permanent monumentation of new corners for any additional right-of-way and a one-time marking of all the right-of-way for utility relocations at a time directed by the CITY. **The ENGINEER shall perform all necessary title work and sufficient research for determination of current right-of-way and easements.**

- (e) Temporary Construction Easements. Prepare legal descriptions for Temporary Construction Easements (TCE) for all parcels where the construction limits extend beyond the existing/proposed right-of-way, and submit tract maps to the City that are suitable for mailing to property owners. The tract maps should include all features shown on the plans, including but not limited to structures, trees, fences, signs, monuments, etc, and should indicate if such items will be impacted within the required easement. Incorporate TCE limits on the plans.

- (f) **ENGINEER shall provide a clearly defined list of known encroachments into the existing right-of-way, including but not limited to structures, fences, planters, walls, etc.** The list shall be in tabular form and include the property address and owner information, approximate baseline station of the encroachment, and nature/description of the same.
  - (g) **ENGINEER shall provide a list of proposed driveway closures, relocations or other changes.** The list shall be in tabular form and include the property address and owner information, approximate baseline station of the approach, and nature/description of the same.
3. **Office Check Plans.** When authorized by the CITY prepare office check plans for the PROJECT based upon comments as agreed upon in field check review. Major items of work included in development of office check plans are:
- (a) **Plan Submittal.** Submit two (2) sets of office check plans to the CITY, with one copy of supplemental specifications and one copy of cost estimates and quantities of work units of the PROJECT for office check. (Cost estimates to be based on current unit prices for similar work in the Wichita area unless otherwise directed by the CITY.) Field check plans marked with CITY and/or KDOT comments are to be returned to the CITY with office check plan submittals. ENGINEER to participate in an office check of the PROJECT with the CITY and KDOT when required.
  - (b) **Utility Coordination.** Identify all potential utility conflicts and provide preliminary office check plans showing the problem locations, posted to the City's FTP site. **Plans will clearly identify specific utility company facilities by color and by name (i.e. not just "gas" or "fiber optic").** ENGINEER shall include a conflict list for each utility, also posted to the FTP site. ENGINEER shall meet with utility company representatives to review plans and utility verification forms (**Attachment No. 3 to Exhibit "A"**) at each milestone date and as directed by the CITY and as determined necessary by the ENGINEER. This information will be compiled into a summary report (**Attachment No. 4 to Exhibit "A" also available on the City's FTP site**) maintained and updated by ENGINEER as necessary to present a cohesive and reflective status of utilities, and provided to the City as necessary. **ENGINEER shall maintain involvement with utility companies until all conflicts have been resolved (not just identified).** When appropriate, the City Engineer will approve the identification on plans of conflicts to be resolved during construction. ENGINEER shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction.
  - (c) **Plan Requirements.** Office check plans shall include traffic signalization details, traffic signing details, pavement marking details, incidental drainage, construction phasing details (when applicable), construction traffic control details, and all other necessary construction details required for the PROJECT. The PROJECT'S plans and proposed special provisions shall address the requirements included in the City's Administrative Regulation 6.5, "Cleanup, Restoration or Replacement Following Construction."
  - (d) **Permits.** The ENGINEER shall prepare any and all necessary permits for this PROJECT, such as the preparation of applications for U.S. Army Corps of Engineers (404) permits, Division of Water Resources permit, Kansas Department of Wildlife and Parks permit and Kansas Department of Health and Environment permit. Also if requested by the CITY, obtain construction approval from the U.S. Army Corps of Engineers and assist the CITY in coordinating the archaeological review of the PROJECT. **The ENGINEER shall be responsible for the cost of all permit fees that are required to complete the PROJECT. The cost shall be included in the design fee submitted by the ENGINEER.**
4. **Project Milestones.** The ENGINEER agrees to complete and deliver the field notes, preliminary and final plans, specifications and estimates to the CITY within the time allotted for the project as stipulated below; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond the control of the ENGINEER.
- Concept Design for the project due by June 6, 2016.**
  - Field Check Plans and an estimate for the project due by December 5, 2016.**
  - Office Check Plans and an estimate for the project due by March 6, 2017.**
  - Completion of all work required by this agreement (including submittal of final approved plans, field notes, and related project documents by April 24, 2017.**



5. **Final Plans.** When authorized by the CITY prepare final plans for the PROJECT based upon comments as agreed upon as a result of the office check review. Major items of work included in development of final plans are:
  - (a) Prepare engineering plans (which shall include construction sequencing and traffic control), supplemental specifications, special provisions and construction cost estimates, or estimates of the quantities of work for the PROJECT.
  - (b) Final Plan Submittals. Final plans, field notes and other pertinent project mapping records are to be submitted per **Attachment No. 1 to Exhibit "A"**.
  - (c) Technical construction specifications shall in general follow the City of Wichita's Standard Specifications and/or KDOT Standard Specifications supplemented as necessary to suit PROJECT requirements. Plan profile sheets shall also be required for water distribution system/water supply line improvements.
  - (d) **ENGINEER shall provide a clearly defined list of known encroachments into the existing right-of-way, including but not limited to structures, fences, planters, walls, etc.** The list shall be in tabular form and include the property address and owner information, approximate baseline station of the encroachment, and nature/description of the same. **The list of encroachments should reflect conditions at the time of final plan submittal.**
  - (e) ENGINEER shall provide a list proposed driveway closures, relocations or other changes. The list shall be in tabular form and include the property address and owner information, approximate baseline station of the approach, and nature/description of the same.
  - (f) Engineer's cost estimate information shall be submitted in tabular form and on a unit cost basis, as approved by the CITY and as required by KDOT. Pay items of work shall conform to the CITY's Master Bid Item List.
  - (g) Final plans when submitted shall be complete and ready for reproducing for distribution to prospective bidders.
  - (h) All applicable coordinate control points and related project staking information shall be furnished on the plans in the form of a bubble map, as well as on a CD-ROM in a text format agreed upon by the CITY. This coordinate information will be used by the CITY for construction staking purposes. See **Attachment No. 2 to Exhibit "A"** for required coordinate information.
  - (i) The date identified as the date of CITY acceptance of final plans and other supplementary work will be that date upon which the City Engineer ascertains that such plans and work are in accordance with all provisions of the contract for design services.
  - (j) ENGINEER shall provide the CITY with electronic files suitable for power point presentations to the Design Council and City Council.
6. **Staking and Inspection** If requested by the CITY, the ENGINEER will enter into a Supplemental Agreement to complete construction staking, material testing, inspection and administration related to the PROJECT.
7. **Post Letting.**
  - (a) All shop drawings submitted by the contractor for the PROJECT shall be reviewed and, when acceptable, approved for construction by the ENGINEER for the PROJECT.
  - (b) The ENGINEER shall meet with effected property owners, along with City staff, at a pre-construction Public Information Meeting, as arranged by the City, to explain project design, including such issues as construction phasing and traffic control.
  - (c) **New Right-of-Way Monumentation.** The Engineer shall complete permanent monumentation of all new R/W after project completion, complete and submit all necessary legal documentation for same.
  - (d) **Section Corner Monuments.** The Engineer shall provide services required by KSA Chapter 58, Article 20, Statute 58-2011, any time a section corner or monument will be endangered, disturbed, or removed. The City of Wichita Construction Engineer will receive a copy of all Land Survey Reference Reports submitted to the Secretary of State Historical Society. All costs associated with this effort shall be the responsibility of the Engineer. The City will provide a three business day notice to the Engineer to mark the monument location for re-establishment after pavement work is completed. The City will then core and install a cast iron monument box and

cover. The Engineer will be notified within three business days after the box is installed to reset the final monument.

(e) **S. I. & A. for Bridges.** *Upon completion of any and all bridge construction, the ENGINEER shall perform the National Bridge Inventory (NBI) inspection as per KDOT Bridge Inspection Manual, in addition to load rating and updating the Structural Inventory and Appraisal (S. I. & A.) form and completing the Item 113 Justification Form for the new bridges if applicable for submittal to KDOT for all bridges within the project limits regardless of initial structure size.*

## **Attachment No. 1 to Exhibit "A" – CIP Scope of Services**

### **Plan Submittal**

*Water* projects plans shall be submitted with (1) set of mylar plans; and a CD of the .dwgs and .pdfs. This includes projects that have the water plans incorporated into that project, for which the cover sheet should also be included.

Storm Sewer, Sanitary Sewer and Paving plans shall be submitted in a .dwg and .pdf format on a CD.

In addition, two (2) sets of 11"x17" plans will be submitted at the time of final .pdf submittal for ALL projects, regardless of the type.

### **Storm Water Pollution Prevention**

For any project disturbing one acre of ground or more, the design Consultant must prepare a Notice of Intent and a Storm Water Pollution Prevention Plan and submit them to the KDHE for approval. Complete copies of the approved NOI and SWP3 must be provided to the City. One hard copy should be provided to the project engineer upon approval, one electronic copy should be included with your transmittal of PDF plan files, and one additional electronic copy should be sent to the attention of Mark Hall at the following address:

City of Wichita  
Storm Water  
455 N. Main 8<sup>th</sup> Floor  
Wichita, KS 67202

THIS INCLUDES **ALL** PROJECTS DISTURBING ONE ACRE OR MORE -- I.E. NEW DEVELOPMENT, ARTERIAL STREETS, DIRT STREETS, BIKE PATHS, SEWER MAINS, ETC.

The City of Wichita will, under no circumstance, bid any project without first receiving copies of the KDHE approved NOI and SWP3.

The design of all City of Wichita construction projects must include the development of a site-specific erosion control plan. The site-specific erosion control plan must be included in the project plans. Every component and requirement of the erosion control plan must be separately and accurately accounted as a measured quantity bid item in the engineer's estimate.

Please note that careful consideration must be given to the transition of BMP maintenance responsibilities throughout the course of multi-phased projects. All intended responsibilities must be clearly demonstrated by the bid items. For example, if it is intended that the contractor of a subsequent waterline project be responsible for the maintenance of silt fence installed with a preceding sanitary sewer project, a measured quantity bid item must be submitted for x-lf of silt fence maintenance.

The City's current BMP standard detail sheets shall be included in all plans. These five sheets must be included in every plan set developed for the City of Wichita, regardless of project size.

## **Attachment No. 2 to Exhibit "A" – CIP Scope of Services**

### **Required Plan Coordinate Information**

#### **Arterial Street Projects & Infill (Existing Neighborhoods)**

##### **I. SANITARY SEWER**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments
- benchmarks, including TBM set with preliminary survey
- center of manholes
- end of manhole stubs (when longer than five feet)

##### **II. WATER LINE**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments; any necessary points for establishing BL, including P.I.'s in BL
- benchmarks, including TBM set with preliminary survey
- beginning and ends of pipe
- all P.I.'s/deflections (horizontal and vertical)
- FH's, tees, bends, air release, valves

##### **III. STORM SEWER**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments; any necessary points for establishing BL, including P.I.'s in BL
- benchmarks, including TBM set with preliminary survey
- center of inside face on Type 1/1A curb inlets; center of high edge on Type 2 curb inlets
- for skewed inlets typically in intersection radii, or not parallel to baseline – center of curb inlet AND center of inside face on Type 1/1A curb inlets; center of high edge on Type 2 curb inlets
- end of end section, at CL of pipe
- center, end of pipe at outside face of headwall; if headwall not perpendicular to pipe, each corner of headwall at outside face
- center of all drop inlets, manholes, and other structures
- center of RCBC at each end (outside face of hubguard); if box rotated, each corner, outside face

##### **IV. PAVING**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments; any necessary points for establishing BL, including P.I.'s in BL
- benchmarks, including TBM set with preliminary survey
- center of signal poles, service and junction boxes, controller, etc.; ends and P.I.'s for retaining walls, at back of walls

**THE SAME COORDINATE SYSTEM SHALL BE USED FOR ALL SEPARATE PHASES OF A LARGER INFILL OR ARTERIAL STREET PROJECT.**

**Sub-Division Projects**

**I. SANITARY SEWER**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey
- center of manholes
- back and/or front lot corners for specifically referenced easement grading, outside that included in mass grading projects; include coordinates for vertical P.I. locations not at lot corners
- end of manhole stubs (when longer than five feet)

**II. WATER DISTRIBUTION SYSTEM**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase.
- benchmarks, including TBM set with preliminary survey
- beginning and ends of pipe
- all P.I.'s/deflections (horizontal and vertical)
- FH's, tees, bends, air release, valves

**III. WATER SUPPLY LINE**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments; any necessary points for establishing BL, including P.I.'s in BL
- benchmarks, including TBM set with preliminary survey
- beginning and ends of pipe
- all P.I.'s/deflections (horizontal and vertical)
- FH's, tees, bends, air release, valves

**IV. STORM SEWER**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey
- center of inside face on Type 1/1A curb inlets; center of high edge on Type 2 curb inlets
- for skewed inlets typically in intersection radii; or not parallel to baseline – center of curb inlet AND center of inside face on Type 1/1A curb inlets; center of high edge on Type 2 curb inlets
- end of end section, at CL of pipe
- center, end of pipe at outside face of headwall; if headwall not perpendicular to pipe, each corner of headwall at outside face
- center of all drop inlets, manholes, and other structures
- center of RCBC at each end (outside face of hubguard); if box rotated, each corner, outside face

**V. MASS GRADING**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey
- all lot corners
- any grade breaks between front & rear lot corners
- high points/low points within drainage easements
- street area
  - centerline @ 100' Sta on tangent sections
  - pc/pt points & 50' along curves
- special drainage swales
  - pc/pt points, pi's & 50' Sta in between
- ponds
  - any grades breaks between pond bottom and rear property line
  - pc/mid radius/pt around pond curves
- for irregular shaped lots (mainly commercial or industrial developments) provide TIN file

## **VI. PAVING**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey

**In addition to the required coordinate information, the following shall be included in all plans, at a minimum, as needed for construction staking on all City projects.**

- Include copy of plat(s) on all plans, as relevant and approved by the Design Engineer.
- Benchmarks – minimum of two City standards, four total desirable; as close to project as possible, even if TBM set with preliminary survey.
- Benchmark elevations must be in the same datum as the design (i.e. NAV 88 design needs NAV 88 benchmarks, not NAV 29)
- All control irons/identified property irons shall be shown on plans, with BL stationing and offset
- Show deflection angles in BL, and/or bearing/azimuth of BL sections
- Arterial project side streets – provide BL station at CL of intersection of the two streets, on the BL; BL station and offset to CL of side street at removal limits; include deflection angle from BL to CL of side street
- Existing FL/pavement grades shown at all match points
- Top of curb grades and stationing at all ends-of-return and horizontal/vertical P.I.'s, not just even stationing
- CL top of pavement grades for arterial
- CL elevation for streets on mass grading work @ 100' Sta in tangent sections and 50' on curves.

### **ELEVATION SHALL BE TO TOP OF ROCK BASE.**

- BL station and offset at all R/W changes; include R/W corners at all intersections, even if no change in R/W
- Clearly show existing grades at R/W and beyond; identify removal limits beyond R/W (for grade purposes) with BL station and offset, or dimension from R/W
- Show offset distance between BL and proposed street CL when not the same; establish clear relationship between the two
- BL station and offset to center of signal poles, service and junction boxes, controllers, etc.
- BL station and offset to back of retaining walls, at ends of walls and all P.I.'s
- Concrete pavement – provide detailed joint pattern, dimensions, and elevations for all valley gutters, intersections, and mainline pavement; should be separate plan sheet(s) with clear and project-specific details
- Storm Sewer – BL station and offset for all curb inlets, drop inlets, manholes, and other structures (to the coordinate point locations detailed in previous sheets); same for SS and WL – pertinent facilities should be referenced to BL station and offset
- Sanitary Sewer – show deflection angles between MH's
- Flow line elevations for manhole stubs

- Curve Tables -- should include bends, tees, valves, FH's etc. for waterlines; ends-of-return, P.I.'s, etc. for paving
- Should be able to accurately scale off of plans

**Attachment No. 3 to Exhibit "A" – CIP Scope of Services**

**Project Name**

**Utility Location Verification for ULCC Sub-Committee (Date)**

**Field Check:** ☐ **Office Check:** ☐

**UTILITY:** \_\_\_\_\_ **Checked by** \_\_\_\_\_ **on** \_\_\_\_\_

**Utility Location:**

- |   |   |
|---|---|
| <input type="checkbox"/> None in Project Limits   | <input type="checkbox"/> In Project Limits, No Relocation Necessary |
| <input type="checkbox"/> Utility will need to relocate  | <input type="checkbox"/> Utility is located in Private Easement     |
|   | <input type="checkbox"/> Private Easement Documentation Attached    |
| <input type="checkbox"/> Utility will need to relocate and is interested in <b>proposed</b> ROW (IF applicable) |   |

**Briefly Describe Type and Location of Facilities within Project:**

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**Estimate Time for Relocation:** ☐ < 3 months ☐ 3-6 months ☐ 6-9 months ☐ > 9 months

**Weather Sensitive:** ☐ Yes ☐ No **If yes, please explain:** \_\_\_\_\_

**Factors prerequisite to or that could affect relocation process (i.e. Regulatory Requirements):**

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**Utility Plan Review:**

☐ Correct as Shown ☐ Corrections needed ☐ Attachments provided for Consultant

**Corrections necessary on plan sheets:**

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**Additional Information requested from Consultant:** \_\_\_\_\_

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**Utility Requests Paper Plans (choose one):** ☐ Full Size ☐ Half Size ☐ Cross-Sections (Full Size)

**Please email this form on or before Date to:**

Project Engineer Consultant  
Company  
E-mail

Leslie Hicks  
City of Wichita  
lhicks@wichita.gov



Attachment No. 4 to Exhibit "A" – CIP Scope of Services

Individual Project Name (I.e., Amidon, 21st to 29th Street North)											
Current Date	2007 Proj. No./ City Proj. No.	City Design Manager	Consultant	Date of First ULCC	Date of Second ULCC	Date of First Revision Distribution	Date of Second Plan Revision Distribution	2/1/11 Purchased Y/N	Date Utility moved if 2/1/11 completion	Project Proposed Bid Date	Proposed Utility Clear Date (project)
2/21/2013	1101101/ 222222	Kallman	Ken Lee/ Rogers & Smith	2/21/2013	2/21/2013			No			
			Utility Contact	Utility needs to relocate (Y/N)	Utility in Private Easement (Y/N)		Utility needs PROPOSED 2/1/11 to relocate (Y/N)	Relocation Westfar Sensitive (Y/N)	Estimated Date of Utility Design Completion	Time needed for relocation after utility design complete	Individual Utility Clear Date
<b>Westar (Distribution)</b>											
Location in Project: (Describe Existing Facilities)											
Relocation Needs:											
Comments:											
<b>Westar (Transmission)</b>											
Location in Project: (Describe Existing Facilities)											
Relocation Needs:											
Comments:											

<b>IGSS</b>
Location in Project: (Describe Existing Facilities)
Relocation Needs:
Comments:
<b>Black Hills</b>
Location in Project: (Describe Existing Facilities)
Relocation Needs:
Comments:
<b>AT&amp;T</b>
Location in Project: (Describe Existing Facilities)
Relocation Needs:
Comments:

<b>Out</b>
Location in Project: (Describe Existing Facilities)
Relocation Needs:
Comments:
<b>Water</b>
Location in Project: (Describe Existing Facilities)
Relocation Needs:
Comments:
<b>Sewer</b>
Location in Project: (Describe Existing Facilities)
Relocation Needs:
Comments:



**EXHIBIT "B"**

**REVISED NON-DISCRIMINATION AND  
EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM  
REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS**

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.
- B. Requirements of the State of Kansas:
  - 1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;
  - 2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";
  - 3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
  - 4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
  - 5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.
- C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:
  - 1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;
  - 2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry: In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;
  - 3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports

to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;

4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.
  5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
- D. Exempted from these requirements are:
1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
  2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

AGREEMENT

for

PROFESSIONAL SERVICES

between

THE CITY OF WICHITA, KANSAS

and

PARSONS BRINCKERHOFF, INC.

for

I-235 & WEST STREET INTERCHANGE SIGNALIZATION

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and PARSONS BRINCKERHOFF, INC., party of the second part, hereinafter called the "ENGINEER".

WHEREAS, the CITY intends to construct;

**I-235 & WEST STREET INTERCHANGE SIGNALIZATION (Project No. 472-85287).**

NOW, THEREFORE, the parties hereto do mutually agree as follows:

**I. SCOPE OF SERVICES**

The ENGINEER shall furnish professional services as required for designing signalization improvements at I-235 & West Street Interchange and to perform the PROJECT tasks outlined in the SCOPE OF SERVICES (Exhibit "A").

**II. IN ADDITION, THE ENGINEER AGREES**

- A. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in Exhibit "A".
- B. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.
- C. To make available during regular office hours, all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this agreement.
- D. To save and hold CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.

- E. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY.
- F. To comply with all Federal, State and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply with the CITY'S Affirmative Action Program as set forth in Exhibit "B" which is attached hereto and adopted by reference as though fully set forth herein.
- G. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.
- H. To complete the services to be performed by ENGINEER within the time allotted for the PROJECT in accordance with Exhibit "A"; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond control of the ENGINEER.
- I. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ENGINEER under this agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by ENGINEER, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.
- J. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement. Such policy of insurance shall be in an amount not less than \$500,000.00 subject to a deductible of \$10,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

Workman's Compensation - Statutory  
Employer's Liability - \$500,000 each occurrence.

Further, a comprehensive general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER against all claims arising from injuries to persons (other than ENGINEER'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this agreement. The liability limit shall not be less than \$500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time ENGINEER starts any work under this agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.

- K. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s) designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this agreement. The ENGINEER shall also advise the CITY of any changes in the person designated Project Manager. Written notification shall be provided to the CITY for any changes exceeding one week in length of time.

### III. THE CITY AGREES:

- A. To furnish all available data pertaining to the PROJECT now in the CITY'S files at no cost to the ENGINEER. Confidential materials so furnished will be kept confidential by the ENGINEER.
- B. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ENGINEER, except as specified in Exhibit "A".
- C. To pay the ENGINEER for his services in accordance with the requirements of this agreement.



- D. To provide the right-of-entry for ENGINEER'S personnel in performing field surveys and inspections.
- E. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The CITY agrees to advise, the ENGINEER, in writing, of the person(s) designated as Project Manager with the issuance of the notice to proceed on the work required by this agreement. The CITY shall also advise the ENGINEER of any changes in the person(s) designated Project Manager. Written notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.
- F. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

#### IV. PAYMENT PROVISIONS

- A. Payment to the ENGINEER for the performance of the professional services required by this agreement shall be made on the basis of the not to exceed fee amount specified below:

**Project No. 472 85287 Concept Design      \$80,000**

- B. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:
  - 1. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the PROJECT.
  - 2. Additional design services not covered by the scope of this agreement.
  - 3. Construction staking, material testing, inspection and administration related to the PROJECT.
  - 4. A major change in the scope of services for the PROJECT.
 If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.

#### V. THE PARTIES HERETO MUTUALLY AGREE:

- A. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the ENGINEER'S inability to proceed with the work.
- B. That the field notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that CITY shall hold ENGINEER harmless from any and all claims, damages or causes of action which arise out of such further use when such further use is not in connection with the PROJECT.
- C. That the services to be performed by the ENGINEER under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.
- D. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by the CITY, provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefor.
- E. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.
- F. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement shall be construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.
- G. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.
- H. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this agreement as of the date first written above.

BY ACTION OF THE CITY COUNCIL

\_\_\_\_\_  
Jeff Longwell, Mayor

SEAL:

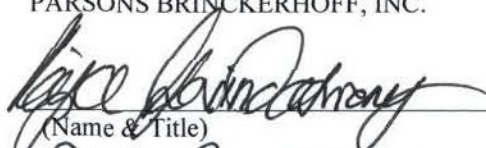
ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Jennifer Magaña, City Attorney and Director of Law

PARSONS BRINCKERHOFF, INC.

  
\_\_\_\_\_  
(Name & Title)

RAJA GOVINDASWAMY  
VICE PRESIDENT

## EXHIBIT "A"

### SCOPE OF SERVICES

#### CAPITAL IMPROVEMENT PROGRAM (CIP) PROJECTS

Upon award of this project the ENGINEER will contact utility companies directly and determine from the existing records the location of all utilities. Coordination with the utility companies involved will include a conceptual plan jointly developed with the utility company indicating the methods employed to resolve utility conflicts. The conceptual plan should include elements of designing around the utility, analysis of construction expense vs. design expense, and utility company expenses to resolve conflicts.

On projects that disturb one acre or more, the ENGINEER will prepare a storm water pollution prevention plan, prepare the necessary permit application(s) and include any provisions or requirements in the project plans and special provisions. The storm water pollution prevention plan shall also include submittal of a Notice of Intent (NOI) prior to bidding; site-specific erosion control plan; and standard Best Management Practice (BMP) detail sheets per Attachment No. 1 to Exhibit "A".

Associated improvements as part of these projects will include, when applicable: permanent traffic signalization system improvements, permanent traffic signing, permanent pavement markings, construction traffic control, construction phasing, incidental drainage, sidewalk, identification of additional right-of-way and furnishing tract drawings and legal descriptions for such right-of-way.

The ENGINEER shall furnish engineering services as required for the best and most cost effective design for the development of the project and provide project alternatives where applicable, including landscaping and beautification provisions on streets where appropriate in available right-of-way; the project plans; supplemental specifications; quantities of work; and estimates of the cost for the PROJECT in the format and detail required by the City Engineer for the City of Wichita; and the Kansas Department of Transportation (KDOT); and the U.S. Army Corps of Engineers, or any other regulatory agency, when applicable. The project alternatives, including proposed landscaping, are to be presented to the City's Design Council, when directed by the Design Engineer, for concurrence in selection prior to progressing to detailed aspects of the work. ENGINEER should use plant material that is drought resistant and requires low maintenance in a xeriscape concept, and is consistent with the City of Wichita Landscape Policy for Arterial Streets. A landscape architect should be included on the ENGINEER's Design Team.

The ENGINEER should identify all trees that may be in conflict or jeopardy of damage by construction activities and then review with Park Department to determine if the trees can be saved and/or moved. In addition, the ENGINEER will notify the City Archaeologist at 316-978-3195 prior to beginning work on this project.

All references below to KDOT only apply to State and Federal Aid projects.

**THIS IS NOT A STATE/FEDERAL AID CONTRACT.**

In connection with the services to be provided, the ENGINEER shall:

#### A. PHASE I - PRELIMINARY CONCEPT DEVELOPMENT

When authorized by the CITY and where applicable, proceed with development of Study and Alternative Concepts for the PROJECT in the detail deemed necessary to permit the preparation of preliminary and final plans for construction of the improvements based on the preliminary information provided to the ENGINEER.

1. Review Alternative Design Concepts. Review alternative design concepts with the City Engineer or his designated representative prior to progressing to detail aspects of the work. Alternative concepts as ascertained shall be reviewed and discussed with the City Engineer or his designated representative for concurrence in determining the best horizontal and vertical alignments for the PROJECT. CITY'S concurrence in selection of an alternate or preliminary concept will be contingent on the accuracy and

completeness of the background information provided by the ENGINEER used in the evaluation process.

2. Review Preliminary Design Concepts. Review preliminary design concepts with the City Engineer for the City of Wichita prior to progressing to detail aspects of the work. Preliminary design concepts shall be provided on a strip map suitable for presentation at public meetings as required by the City Engineer of the City of Wichita.
3. Drainage Study. When authorized, conduct a detailed study to explore alternative design concepts concerning drainage for the PROJECT. Present the findings in writing identifying recommendations to the CITY, including preliminary cost estimates, prior to development of field check plans. Such written findings and recommendations must be in a format which is self-explanatory and readily understood by persons with average backgrounds for the technology involved.
4. Preliminary Street and Storm Water Sewer Alignments and Profiles. Prepare preliminary street geometrics/alignments with proposed street and storm water sewer grades to conform to the drainage plan for the PROJECT. The drainage plan and computations shall be submitted along with one (1) set of preliminary street and storm water sewer profiles to the CITY for review and approval prior to proceeding with development of field check plans.
5. Preliminary Water Line and Sanitary Sewer Alignments and Profiles. Preliminary water and sanitary sewer alignments and grades are to be reviewed with the CITY by the ENGINEER for approval prior to proceeding to detail aspects of the work. The ENGINEER shall verify and coordinate work to be completed with the Public Works & Utilities Department.
6. Right-of-Way & Temporary Construction Easements. Identify permanent right-of-way and temporary construction easement requirements for the preliminary concepts developed. Such right-of-way and temporary construction easement requirements shall be provided on a strip map suitable for presentation at public meetings as required by the City Engineer.
7. Public Hearings. Assist the City in the conduct of a public hearing(s) on the proposed improvements for the PROJECT as necessary to inform the public, governmental agencies, and affected parties as to construction traffic control, construction sequence and methods, estimated time and duration of project construction, environmental assessment, right-of-way requirements, estimated project costs, etc. Provide adequate visual displays for public presentations and in electronic format for use in Power Point presentation.
8. S. I. & A. for Existing Bridges. For the duration of the project, the ENGINEER shall perform National Bridge Inventory (NBI) inspections as per the KDOT Bridge Inspection Manual in addition to load rating and updating the Structural Inventory and Appraisal (S. I. & A.) form for submittal to KDOT for all existing bridges within the project limits as per regular City inspection schedule.
9. Landscape Plans. When the design has fulfilled the program requirements, submit a PDF set of landscape plans to the CITY'S project manager. After the project manager approves the plans, he/she will submit the same to the Park Department for review and comments. When the Park Department has approved the plans, the ENGINEER may proceed with placing them on the Design Council agenda for review and comment, as directed by the CITY.
10. Design Council. As requested, ENGINEER shall meet with the City's Design Council to review the PROJECT design and interpret engineering drawings. The first presentation should be made at the point when the ENGINEER has arrived at a design which meets all of the functional requirements of the program and has been tentatively approved by the City staff person in charge. Before authorization is given to the ENGINEER to move on to design development, the PROJECT should be presented to the Design Council for review.

**B. PHASE II - PLAN DEVELOPMENT**

When authorized by the CITY, proceed with development of Plans for the PROJECT based on the preliminary design concepts approved by the CITY.

1. Design Council. As requested, ENGINEER shall meet with the City's Design Council to review the PROJECT design and interpret engineering drawings. The PROJECT should be presented when the design of the PROJECT has been perfected to the point where all design factors (shape, size, materials, colors, landscape, exterior relationship, amenities, etc.) have been decided and tentatively approved by staff. It is at this point that the design can be considered "frozen" and will not be changed except for unforeseen conditions, which may arise.

(It should be noted it is in the ENGINEER'S best interest to reach design freeze and gain aesthetic approval as early in the project as possible. Whereas the Design Council does not presume to tell the ENGINEER or staff when in the planning process design freeze should take place, the amount of time and effort which the ENGINEER has invested in the development of construction documents or other activities will not be taken into consideration by the Design Council at the Design Freeze review.)

2. Field Check Plans. When authorized by the CITY, prepare field check plans and a preliminary cost estimate for the PROJECT based on approved preliminary concepts as required by the CITY. ENGINEER to submit one copy of preliminary cost estimate and two (2) sets of field check plans to the CITY and one copy of preliminary cost estimate and one electronic set of field check plans to KDOT, to be uploaded to the KDOT FTP site. ENGINEER to participate in a field check of the PROJECT with the CITY and with KDOT when required. Major items of work included in development of field check plans are:

- (a) Field Surveys. Provide engineering and technical personnel and equipment to obtain survey data as required for the engineering design. Utility companies shall be requested to flag or otherwise locate their facilities within the PROJECT limits prior to the ENGINEER conducting the field survey for the PROJECT. Utility information shall be clearly noted and identified on the plans.

- (b) Utility Coordination. Identify all potential utility conflicts and provide preliminary field check plans showing the problem locations, posted to the City's FTP site. **Plans will clearly identify specific utility company facilities by color and by name (i.e. not just "gas" or "fiber optic").** ENGINEER shall include a conflict list for each utility, also posted to the FTP site. ENGINEER shall meet with utility company representatives to review plans and utility verification forms (**Attachment No. 3 to Exhibit "A"**) at each milestone date and as directed by the CITY and as determined necessary by the ENGINEER. This information will be compiled into a summary report (**Attachment No. 4 to Exhibit "A"**) maintained and updated by ENGINEER as necessary to present a cohesive and reflective status of utilities, and provided to the City as necessary. **ENGINEER shall maintain involvement with utility companies until all conflicts have been resolved (not just identified).** When appropriate, the City Engineer will approve the identification on plans of conflicts to be resolved during construction. ENGINEER shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction.

- (c) Soils and Foundation Investigations. The CITY may authorize ENGINEER to direct an approved Testing Laboratory to perform subsurface borings and soils investigations for the PROJECT, which shall be reported in the format and detail required by the City Engineer for the City of Wichita. The Testing Laboratory shall be responsible for the accuracy and competence of their work. The ENGINEER'S contract with the Testing Laboratory shall provide that the Testing Laboratory is responsible to the City for the accuracy and competence of the Testing Laboratory's work. If required the cost of soils and boring investigations shall be prepared as a supplemental agreement between City of Wichita and the ENGINEER. This may be required for bridges, structures, retaining walls and other locations.

- (d) Property Acquisitions. Prepare right-of-way/easement tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions. ENGINEER will perform all necessary survey work associated with marking the additional right-of-way or easements. This shall include the permanent monumentation of new corners for any additional right-of-way and a one-time marking of all the right-of-way for utility relocations at a time directed by the CITY. **The ENGINEER shall perform all necessary title work and sufficient research for determination of current right-of-way and easements.**

- (e) Temporary Construction Easements. Prepare legal descriptions for Temporary Construction Easements (TCE) for all parcels where the construction limits extend beyond the existing/proposed right-of-way, and submit tract maps to the City that are suitable for mailing to property owners. The tract maps should include all features shown on the plans, including but not limited to structures, trees, fences, signs, monuments, etc, and should indicate if such items will be impacted within the required easement. Incorporate TCE limits on the plans.

- (f) **ENGINEER shall provide a clearly defined list of known encroachments into the existing right-of-way, including but not limited to structures, fences, planters, walls, etc.**

The list shall be in tabular form and include the property address and owner information, approximate baseline station of the encroachment, and nature/description of the same.

(g) **ENGINEER** shall provide a list of proposed driveway closures, relocations or other changes. The list shall be in tabular form and include the property address and owner information, approximate baseline station of the approach, and nature/description of the same.

3. **Office Check Plans.** When authorized by the CITY prepare office check plans for the PROJECT based upon comments as agreed upon in field check review. Major items of work included in development of office check plans are:

(a) **Plan Submittal.** Submit two (2) sets of office check plans to the CITY, with one copy of supplemental specifications and one copy of cost estimates and quantities of work units of the PROJECT for office check. (Cost estimates to be based on current unit prices for similar work in the Wichita area unless otherwise directed by the CITY.) Field check plans marked with CITY and/or KDOT comments are to be returned to the CITY with office check plan submittals. **ENGINEER** to participate in an office check of the PROJECT with the CITY and KDOT when required.

(b) **Utility Coordination.** Identify all potential utility conflicts and provide preliminary office check plans showing the problem locations, posted to the City's FTP site. **Plans will clearly identify specific utility company facilities by color and by name (i.e. not just "gas" or "fiber optic").** **ENGINEER** shall include a conflict list for each utility, also posted to the FTP site. **ENGINEER** shall meet with utility company representatives to review plans and utility verification forms (**Attachment No. 3 to Exhibit "A"**) at each milestone date and as directed by the CITY and as determined necessary by the **ENGINEER**. This information will be compiled into a summary report (**Attachment No. 4 to Exhibit "A" also available on the City's FTP site**) maintained and updated by **ENGINEER** as necessary to present a cohesive and reflective status of utilities, and provided to the City as necessary. **ENGINEER shall maintain involvement with utility companies until all conflicts have been resolved (not just identified).** When appropriate, the City Engineer will approve the identification on plans of conflicts to be resolved during construction. **ENGINEER** shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction.

(c) **Plan Requirements.** Office check plans shall include traffic signalization details, traffic signing details, pavement marking details, incidental drainage, construction phasing details (when applicable), construction traffic control details, and all other necessary construction details required for the PROJECT. The PROJECT'S plans and proposed special provisions shall address the requirements included in the City's Administrative Regulation 6.5, "Cleanup, Restoration or Replacement Following Construction."

(d) **Permits.** The **ENGINEER** shall prepare any and all necessary permits for this PROJECT, such as the preparation of applications for U.S. Army Corps of Engineers (404) permits, Division of Water Resources permit, Kansas Department of Wildlife and Parks permit and Kansas Department of Health and Environment permit. Also if requested by the CITY, obtain construction approval from the U.S. Army Corps of Engineers and assist the CITY in coordinating the archaeological review of the PROJECT. **The ENGINEER shall be responsible for the cost of all permit fees that are required to complete the PROJECT. The cost shall be included in the design fee submitted by the ENGINEER.**

4. **Project Milestones.** The **ENGINEER** agrees to complete and deliver the field notes, preliminary and final plans, specifications and estimates to the CITY within the time allotted for the project as stipulated below; EXCEPT that the **ENGINEER** shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond the control of the **ENGINEER**.

Concept Design for the project due by June 6, 2016.

Field Check Plans and an estimate for the project due by August 8, 2016.

Office Check Plans and an estimate for the project due by September 3, 2016.

Completion of all work required by this agreement (including submittal of final approved plans, field notes, and related project documents by October 3, 2016.

5. Final Plans. When authorized by the CITY prepare final plans for the PROJECT based upon comments as agreed upon as a result of the office check review. Major items of work included in development of final plans are:
  - (a) Prepare engineering plans (which shall include construction sequencing and traffic control), supplemental specifications, special provisions and construction cost estimates, or estimates of the quantities of work for the PROJECT.
  - (b) Final Plan Submittals. Final plans, field notes and other pertinent project mapping records are to be submitted per Attachment No. 1 to Exhibit "A".
  - (c) Technical construction specifications shall in general follow the City of Wichita's Standard Specifications and/or KDOT Standard Specifications supplemented as necessary to suit PROJECT requirements. Plan profile sheets shall also be required for water distribution system/water supply line improvements.
  - (d) ENGINEER shall provide a clearly defined list of known encroachments into the existing right-of-way, including but not limited to structures, fences, planters, walls, etc. The list shall be in tabular form and include the property address and owner information, approximate baseline station of the encroachment, and nature/description of the same. The list of encroachments should reflect conditions at the time of final plan submittal.
  - (e) ENGINEER shall provide a list proposed driveway closures, relocations or other changes. The list shall be in tabular form and include the property address and owner information, approximate baseline station of the approach, and nature/description of the same.
  - (f) Engineer's cost estimate information shall be submitted in tabular form and on a unit cost basis, as approved by the CITY and as required by KDOT. Pay items of work shall conform to the CITY's Master Bid Item List.
  - (g) Final plans when submitted shall be complete and ready for reproducing for distribution to prospective bidders.
  - (h) All applicable coordinate control points and related project staking information shall be furnished on the plans in the form of a bubble map, as well as on a CD-ROM in a text format agreed upon by the CITY. This coordinate information will be used by the CITY for construction staking purposes. See Attachment No. 2 to Exhibit "A" for required coordinate information.
  - (i) The date identified as the date of CITY acceptance of final plans and other supplementary work will be that date upon which the City Engineer ascertains that such plans and work are in accordance with all provisions of the contract for design services.
  - (j) ENGINEER shall provide the CITY with electronic files suitable for power point presentations to the Design Council and City Council.
6. Staking and Inspection If requested by the CITY, the ENGINEER will enter into a Supplemental Agreement to complete construction staking, material testing, inspection and administration related to the PROJECT.
7. Post Letting.
  - (a) All shop drawings submitted by the contractor for the PROJECT shall be reviewed and, when acceptable, approved for construction by the ENGINEER for the PROJECT.
  - (b) The ENGINEER shall meet with effected property owners, along with City staff, at a pre-construction Public Information Meeting, as arranged by the City, to explain project design, including such issues as construction phasing and traffic control.
  - (c) New Right-of-Way Monumentation. The Engineer shall complete permanent monumentation of all new R/W after project completion, complete and submit all necessary legal documentation for same.
  - (d) Section Corner Monuments. The Engineer shall provide services required by KSA Chapter 58, Article 20, Statute 58-2011, any time a section corner or monument will be endangered, disturbed, or removed. The City of Wichita Construction Engineer will receive a copy of all Land Survey Reference Reports submitted to the Secretary of State Historical Society. All costs associated with this effort shall be the responsibility of the Engineer. The City will provide a three business day notice to the Engineer to mark the monument location for re-establishment after pavement work is completed. The City will then core and install a cast iron monument box and cover. The Engineer will be notified within three business days after the box is installed to reset

the final monument.

(e) S. I. & A. for Bridges. Upon completion of any and all bridge construction, the ENGINEER shall perform the National Bridge Inventory (NBI) inspection as per KDOT Bridge Inspection Manual, in addition to load rating and updating the Structural Inventory and Appraisal (S. I. & A.) form and completing the Item 113 Justification Form for the new bridges if applicable for submittal to KDOT for all bridges within the project limits regardless of initial structure size.



**Project Specific Scope of Services**  
**I-235 & West Street Interchange Signalization**  
**(City Project No. 472-85287)**

In connection with services to be provided under Exhibit "A" Scope of Services, the ENGINEER shall:

**A. PHASE I – PRELIMINARY CONCEPT DEVELOPMENT**

Two (2) general concepts will be evaluated in this phase:

- Signalization of the existing standard diamond interchange maximizing left/right turn storage to maximize traffic function (Level of Service) at the ramp intersections.
- Signalization of a Diverging Diamond Interchange maximizing left/right turn storage to maximize traffic function (Level of Service) at the ramp intersections.

Both Concepts will be developed in keeping with the following items:

- Concrete pavement with curb & gutter is anticipated.
- The WB-67 vehicle will be the design vehicle for turning movements.
- 6' pedestrian sidewalks (northbound and southbound) are to be provided with no allowance for bike facilities.
- Estimates of Probable Construction Cost will be developed. The construction cost estimates will be based on PB's professional experience and judgment and shall be deemed to represent PB's opinion. PB has no control over the cost of labor, material, equipment and other relevant factors that could influence the ultimate construction costs. Thus, PB does not guarantee that proposals, bids, or the actual facility cost will be the same as PB's estimate of probable construction cost or that construction costs will not vary from its opinions of probable cost.
- Existing street lighting requirements will be coordinated with both City of Wichita and KDOT.

## **Attachment No. 1 to Exhibit "A" – CIP Scope of Services**

### **Plan Submittal**

*Water* projects plans shall be submitted with (1) set of mylar plans; and a CD of the .dwgs and .pdfs. This includes projects that have the water plans incorporated into that project, for which the cover sheet should also be included.

Storm Sewer, Sanitary Sewer and Paving plans shall be submitted in a .dwg and .pdf format on a CD.

In addition, two (2) sets of 11"x17" plans will be submitted at the time of final .pdf submittal for ALL projects, regardless of the type.

### **Storm Water Pollution Prevention**

For any project disturbing one acre of ground or more, the design Consultant must prepare a Notice of Intent and a Storm Water Pollution Prevention Plan and submit them to the KDHE for approval. Complete copies of the approved NOI and SWP3 must be provided to the City. One hard copy should be provided to the project engineer upon approval, one electronic copy should be included with your transmittal of PDF plan files, and one additional electronic copy should be sent to the attention of Mark Hall at the following address:

City of Wichita  
Storm Water  
455 N. Main 8<sup>th</sup> Floor  
Wichita, KS 67202

THIS INCLUDES ALL PROJECTS DISTURBING ONE ACRE OR MORE – I.E. NEW DEVELOPMENT, ARTERIAL STREETS, DIRT STREETS, BIKE PATHS, SEWER MAINS, ETC.

The City of Wichita will, under no circumstance, bid any project without first receiving copies of the KDHE approved NOI and SWP3.

The design of all City of Wichita construction projects must include the development of a site-specific erosion control plan. The site-specific erosion control plan must be included in the project plans. Every component and requirement of the erosion control plan must be separately and accurately accounted as a measured quantity bid item in the engineer's estimate.

Please note that careful consideration must be given to the transition of BMP maintenance responsibilities throughout the course of multi-phased projects. All intended responsibilities must be clearly demonstrated by the bid items. For example, if it is intended that the contractor of a subsequent waterline project be responsible for the maintenance of silt fence installed with a preceding sanitary sewer project, a measured quantity bid item must be submitted for x-lf of silt fence maintenance.

The City's current BMP standard detail sheets shall be included in all plans. These five sheets must be included in every plan set developed for the City of Wichita, regardless of project size.

## **Attachment No. 2 to Exhibit "A" – CIP Scope of Services**

### **Required Plan Coordinate Information**

#### **Arterial Street Projects & Infill (Existing Neighborhoods)**

##### **I. SANITARY SEWER**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments
- benchmarks, including TBM set with preliminary survey
- center of manholes
- end of manhole stubs (when longer than five feet)

##### **II. WATERLINE**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments; any necessary points for establishing BL, including P.I.'s in BL
- benchmarks, including TBM set with preliminary survey
- beginning and ends of pipe
- all P.I.'s/deflections (horizontal and vertical)
- FH's, tees, bends, air release, valves

##### **III. STORM SEWER**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments; any necessary points for establishing BL, including P.I.'s in BL
- benchmarks, including TBM set with preliminary survey
- center of inside face on Type 1/1A curb inlets; center of high edge on Type 2 curb inlets
- for skewed inlets typically in intersection radii, or not parallel to baseline – center of curb inlet **AND** center of inside face on Type 1/1A curb inlets; center of high edge on Type 2 curb inlets
- end of end section, at CL of pipe
- center; end of pipe at outside face of headwall; if headwall not perpendicular to pipe, each corner of headwall at outside face
- center of all drop inlets, manholes, and other structures
- center of RCBC at each end (outside face of hubguard); if box rotated, each corner, outside face

##### **IV. PAVING**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments; any necessary points for establishing BL, including P.I.'s in BL
- benchmarks, including TBM set with preliminary survey
- center of signal poles, service and junction boxes, controller, etc.; ends and P.I.'s for retaining walls, at back of walls

**THE SAME COORDINATE SYSTEM SHALL BE USED FOR ALL SEPARATE PHASES OF A LARGER INFILL OR ARTERIAL STREET PROJECT.**

**Sub-Division Projects**

**I. SANITARY SEWER**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey
- center of manholes
- back and/or front lot corners for specifically referenced easement grading, outside that included in mass grading projects; include coordinates for vertical P.I. locations not at lot corners
- end of manhole stubs (when longer than five feet)

**II. WATER DISTRIBUTION SYSTEM**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey
- beginning and ends of pipe
- all P.I.'s/deflections (horizontal and vertical)
- FH's, tees, bends, air release, valves

**III. WATER SUPPLY LINE**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments; any necessary points for establishing BL, including P.I.'s in BL
- benchmarks, including TBM set with preliminary survey
- beginning and ends of pipe
- all P.I.'s/deflections (horizontal and vertical)
- FH's, tees, bends, air release, valves

**IV. STORM SEWER**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey
- center of inside face on Type 1/1A curb inlets; center of high edge on Type 2 curb inlets
- for skewed inlets typically in intersection radii, or not parallel to baseline – center of curb inlet AND center of inside face on Type 1/1A curb inlets; center of high edge on Type 2 curb inlets
- end of end section, at CL of pipe
- center, end of pipe at outside face of headwall; if headwall not perpendicular to pipe, each corner of headwall at outside face
- center of all drop inlets, manholes, and other structures
- center of RCBC at each end (outside face of hubguard); if box rotated, each corner, outside face

**V. MASS GRADING**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey
- all lot corners
- any grade breaks between front & rear lot corners
- high points/low points within drainage easements.
- street area
  - centerline @ 100' Sta on tangent sections
  - pc/pt points & 50' along curves
- special drainage swales
  - pc/pt points, pi's & 50' Sta in between
- ponds
  - any grades breaks between pond bottom and rear property line
  - pc/mid radius/pt around pond curves
- for irregular shaped lots (mainly commercial or industrial developments) provide TIN file

#### **VI. PAVING**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey

**In addition to the required coordinate information, the following shall be included in all plans, at a minimum, as needed for construction staking on all City projects.**

- Include copy of plat(s) on all plans, as relevant and approved by the Design Engineer
- Benchmarks – minimum of two City standards; four total desirable; as close to project as possible, even if TBM set with preliminary survey.
- Benchmark elevations must be in the same datum as the design (i.e. NAV 88 design needs NAV 88 benchmarks, not NAV 29)
- All control irons/identified property irons shall be shown on plans, with BL stationing and offset
- Show deflection angles in BL, and/or bearing/azimuth of BL sections
- Arterial project side streets – provide BL station at CL of intersection of the two streets, on the BL; BL station and offset to CL of side street at removal limits; include deflection angle from BL to CL of side street
- Existing FL/pavement grades shown at all match points
- Top of curb grades and stationing at all ends-of-return and horizontal/vertical P.I.'s, not just even stationing
- CL top of pavement grades for arterial
- CL elevation for streets on mass grading work @ 100' Sta in tangent sections and 50' on curves.
- **ELEVATION SHALL BE TO TOP OF ROCK BASE.**
- BL station and offset at all R/W changes; include R/W corners at all intersections; even if no change in R/W
- Clearly show existing grades at R/W and beyond; identify removal limits beyond R/W (for grade purposes) with BL station and offset, or dimension from R/W
- Show offset distance between BL and proposed street CL when not the same; establish clear relationship between the two
- BL station and offset to center of signal poles, service and junction boxes, controllers, etc.
- BL station and offset to back of retaining walls, at ends of walls and all P.I.'s
- Concrete pavement – provide detailed joint pattern, dimensions, and elevations for all valley gutters, intersections, and mainline pavement; should be separate plan sheet(s) with clear and project-specific details
- Storm Sewer – BL station and offset for all curb inlets, drop inlets, manholes, and other structures (to the coordinate point locations detailed in previous sheets); same for SS and WL – pertinent facilities should be referenced to BL station and offset
- Sanitary Sewer – show deflection angles between MH's
- Flow line elevations for manhole stubs

- Curve Tables – should include bends, tees, valves, FH's etc. for waterlines; ends-of-return, P.I.'s, etc. for paving
- Should be able to accurately scale off of plans

**Attachment No. 3 to Exhibit "A" – CIP Scope of Services**

**Project Name**

**Utility Location Verification for ULCC Sub-Committee (Date)**

**Field Check:** ☐ **Office Check:** ☐

**UTILITY:** \_\_\_\_\_ **Checked by** \_\_\_\_\_ **on** \_\_\_\_\_

**Utility Location:**

- |   |   |
|---|---|
| <input type="checkbox"/> None in Project Limits   | <input type="checkbox"/> In Project Limits, No Relocation Necessary |
| <input type="checkbox"/> Utility will need to relocate  | <input type="checkbox"/> Utility is located in Private Easement     |
| <input type="checkbox"/> Utility will need to relocate and is interested in <u>proposed</u> ROW (IF applicable) | <input type="checkbox"/> Private Easement Documentation Attached    |

**Briefly Describe Type and Location of Facilities within Project:**

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**Estimate Time for Relocation:** ☐ < 3 months ☐ 3-6 months ☐ 6-9 months ☐ > 9 months

**Weather Sensitive:** ☐ Yes ☐ No **If yes, please explain:** \_\_\_\_\_

**Factors prerequisite to or that could affect relocation process (i.e. Regulatory Requirements):**

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**Utility Plan Review:**

☐ Correct as Shown ☐ Corrections needed ☐ Attachments provided for Consultant

**Corrections necessary on plan sheets:**

---

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**Additional Information requested from Consultant:** \_\_\_\_\_

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**Utility Requests Paper Plans (choose one):** ☐ Full Size ☐ Half Size ☐ Cross-Sections (Full Size)

**Please email this form on or before Date to:**

Project Engineer Consultant  
Company  
E-mail

Leslie Hicks  
City of Wichita  
lhicks@wichita.gov

**Attachment No. 4 to Exhibit "A" – CIP Scope of Services**

Individual Project Name (i.e., Amidon, 21st to 29th Street North)											
Current Date	ICD# Proj. NO	City Design Manager	Consultant	Date of First URCC	Date of Second URCC	Date of Plan Revision Distribution	Date of Second Plan Revision Distribution	R/W Purchased Y/N	Date Utilities notified of R/W completion	Project Proposed and Date	Proposed Utility Clear Date (project)
2/21/2013	1111111/ 222222	Kallman	Ken Lee/ Peoples & Ruben	2/21/2013	2/21/2013			No			
				Utility needs to relocate (Y/N)	Utility in Private Encasement (Y/N)	Utility needs PROPOSED R/W to relocate (Y/N)	Relocation Weather Sensitive (Y/N)	Estimated Date of Utility Design Completion	Time needed for relocation after utility design complete	Individual Utility Clear Date	
<b>Westar (Distribution)</b>											
Location in Project: (Describe Existing Facilities)											
Relocation Needs:											
Comments:											
<b>Westar (Transmission)</b>											
Location in Project: (Describe Existing Facilities)											
Relocation Needs:											
Comments:											



KGSS
Location in Project: (Describe Existing Facilities)
Relocation Needs:
Comments:
Black Hills
Location in Project: (Describe Existing Facilities)
Relocation Needs:
Comments:
AT&T
Location in Project: (Describe Existing Facilities)
Relocation Needs:
Comments:

Cons.	
Location in Project: (Describe Existing Facilities)	
Relocation Needs:	
Comments:	
Water	
Location in Project: (Describe Existing Facilities)	
Relocation Needs:	
Comments:	
Sewer	
Location in Project: (Describe Existing Facilities)	
Relocation Needs:	
Comments:	

Stormwater	
Location in Project: (Describe Existing Facilities)	
Relocation Needs:	
Comments:	
Other	
Location in Project: (Describe Existing Facilities)	
Relocation Needs:	
Comments:	

## EXHIBIT "B"

### REVISED NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.
- B. Requirements of the State of Kansas:
  - 1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;
  - 2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";
  - 3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
  - 4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
  - 5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.
- C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:
  - 1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;
  - 2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;
  - 3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be

deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;

4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.

5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.

2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

AGREEMENT

for

PROFESSIONAL SERVICES

between

THE CITY OF WICHITA, KANSAS

and

RUGGLES & BOHM, P.A.

for

ROSE MARIE NEIGHBORHOOD WATER MAIN REPLACEMENT

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and RUGGLES & BOHM, P.A., party of the second part, hereinafter called the "ENGINEER".

WHEREAS, the CITY intends to construct;

ROSE MARIE NEIGHBORHOOD WATER MAIN REPLACEMENT (Project No. 448-90721).

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. SCOPE OF SERVICES

The ENGINEER shall furnish professional services as required for designing water improvements in the Rose Marie Neighborhood and to perform the PROJECT tasks outlined in the SCOPE OF SERVICES (Exhibit "A").

II. IN ADDITION, THE ENGINEER AGREES

- A. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in Exhibit "A".
- B. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.
- C. To make available during regular office hours, all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this agreement.
- D. To save and hold CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.

servants, employees, or subcontractors occurring in the performance of its services under this contract.

- E. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY.
- F. To comply with all Federal, State and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply with the CITY'S Affirmative Action Program as set forth in **Exhibit "B"** which is attached hereto and adopted by reference as though fully set forth herein.
- G. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.
- H. To complete the services to be performed by ENGINEER within the time allotted for the PROJECT in accordance with **Exhibit "A"**, EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond control of the ENGINEER.
- I. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ENGINEER under this agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by ENGINEER, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.
- J. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement. Such policy of insurance shall be in an amount not less than \$500,000.00 subject to a deductible of \$10,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

Workman's Compensation - Statutory  
Employer's Liability - \$500,000 each occurrence.

Further, a comprehensive general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER against all claims arising from injuries to persons (other than ENGINEER'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this agreement. The liability limit shall not be less than \$500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time ENGINEER starts any work under this agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.

- K. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s) designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this agreement. The ENGINEER shall also advise the CITY of any changes in the person designated Project Manager. Written notification shall be provided to the CITY for any changes exceeding one week in length of time.

### III. THE CITY AGREES:

- A. To furnish all available data pertaining to the PROJECT now in the CITY'S files at no cost to the ENGINEER. Confidential materials so furnished will be kept confidential by the ENGINEER.
- B. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ENGINEER, except as specified in **Exhibit "A"**.

- D. To provide the right-of-entry for ENGINEER'S personnel in performing field surveys and inspections.
- E. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The CITY agrees to advise, the ENGINEER, in writing, of the person(s) designated as Project Manager with the issuance of the notice to proceed on the work required by this agreement. The CITY shall also advise the ENGINEER of any changes in the person(s) designated Project Manager. Written notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.
- F. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

#### IV. PAYMENT PROVISIONS

- A. Payment to the ENGINEER for the performance of the professional services required by this agreement shall be made on the basis of the not to exceed fee amount specified below:

**Project No. 448 90721 Concept Design      \$193,100**

- B. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:
  - 1. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the PROJECT.
  - 2. Additional design services not covered by the scope of this agreement.
  - 3. Construction staking, material testing, inspection and administration related to the PROJECT.
  - 4. A major change in the scope of services for the PROJECT.

If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.

#### V. THE PARTIES HERETO MUTUALLY AGREE:

- A. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the ENGINEER'S inability to proceed with the work.
- B. That the field notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that CITY shall hold ENGINEER harmless from any and all claims, damages or causes of action which arise out of such further use when such further use is not in connection with the PROJECT.
- C. That the services to be performed by the ENGINEER under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.
- D. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by the CITY, provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefor.
- E. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.
- F. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement shall be construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.
- G. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.
- H. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.



IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this agreement as of the date first written above.

BY ACTION OF THE CITY COUNCIL


\_\_\_\_\_  
Jeff Longwell, Mayor

SEAL:

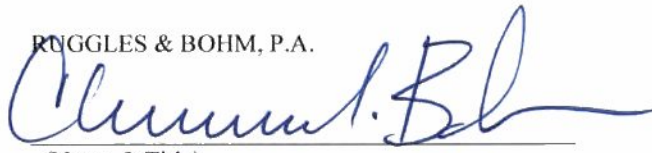
ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

APPROVED AS TO FORM:

  
for Jennifer Magaña, City Attorney and Director of Law

RUGGLES & BOHM, P.A.

  
(Name & Title)  
Christopher M. Bohm  
Pres.

## EXHIBIT "A"

### SCOPE OF SERVICES

#### CAPITAL IMPROVEMENT PROGRAM (CIP) PROJECTS

Upon award of this project the ENGINEER will contact utility companies directly and determine from the existing records the location of all utilities. Coordination with the utility companies involved will include a conceptual plan jointly developed with the utility company indicating the methods employed to resolve utility conflicts. The conceptual plan should include elements of designing around the utility, analysis of construction expense vs. design expense, and utility company expenses to resolve conflicts.

On projects that disturb one acre or more, the ENGINEER will prepare a storm water pollution prevention plan, prepare the necessary permit application(s) and include any provisions or requirements in the project plans and special provisions. The storm water pollution prevention plan shall also include submittal of a Notice of Intent (NOI) prior to bidding; site-specific erosion control plan; and standard Best Management Practice (BMP) detail sheets per Attachment No. 1 to Exhibit "A".

Associated improvements as part of these projects will include, when applicable: permanent traffic signalization system improvements, permanent traffic signing, permanent pavement markings, construction traffic control, construction phasing, incidental drainage, sidewalk, identification of additional right-of-way and furnishing tract drawings and legal descriptions for such right-of-way.

The ENGINEER shall furnish engineering services as required for the best and most cost effective design for the development of the project and provide project alternatives where applicable, including landscaping and beautification provisions on streets where appropriate in available right-of-way; the project plans; supplemental specifications; quantities of work; and estimates of the cost for the PROJECT in the format and detail required by the City Engineer for the City of Wichita; and the Kansas Department of Transportation (KDOT); and the U.S. Army Corps of Engineers, or any other regulatory agency, when applicable. The project alternatives, including proposed landscaping, are to be presented to the City's Design Council, when directed by the *Design Engineer*, for concurrence in selection prior to progressing to detailed aspects of the work. ENGINEER should use plant material that is drought resistant and requires low maintenance in a xeriscape concept, and is consistent with the City of Wichita Landscape Policy for Arterial Streets. A landscape architect should be included on the ENGINEER's Design Team.

The ENGINEER should identify all trees that may be in conflict or jeopardy of damage by construction activities and then review with Park Department to determine if the trees can be saved and/or moved. In addition, the ENGINEER will notify the City Archaeologist at 316-978-3195 prior to beginning work on this project.

All references below to KDOT only apply to State and Federal Aid projects.

THIS IS NOT A STATE/FEDERAL AID CONTRACT.

In connection with the services to be provided, the ENGINEER shall:

#### A. PHASE I - PRELIMINARY CONCEPT DEVELOPMENT

When authorized by the CITY and where applicable, proceed with development of Study and Alternative Concepts for the PROJECT in the detail deemed necessary to permit the preparation of preliminary and final plans for construction of the improvements based on the preliminary information provided to the ENGINEER.

1. Review Alternative Design Concepts. Review alternative design concepts with the City Engineer or his designated representative prior to progressing to detail aspects of the work. Alternative concepts as ascertained shall be reviewed and discussed with the City Engineer or his designated representative for concurrence in determining the best horizontal and vertical alignments for the PROJECT. CITY'S

concurrence in selection of an alternate or preliminary concept will be contingent on the accuracy and completeness of the background information provided by the ENGINEER used in the evaluation process.

2. Review Preliminary Design Concepts. Review preliminary design concepts with the City Engineer for the City of Wichita prior to progressing to detail aspects of the work. Preliminary design concepts shall be provided on a strip map suitable for presentation at public meetings as required by the City Engineer of the City of Wichita.
3. Drainage Study. When authorized, conduct a detailed study to explore alternative design concepts concerning drainage for the PROJECT. Present the findings in writing identifying recommendations to the CITY, including preliminary cost estimates, prior to development of field check plans. Such written findings and recommendations must be in a format which is self-explanatory and readily understood by persons with average backgrounds for the technology involved.
4. Preliminary Street and Storm Water Sewer Alignments and Profiles. Prepare preliminary street geometrics/alignments with proposed street and storm water sewer grades to conform to the drainage plan for the PROJECT. The drainage plan and computations shall be submitted along with one (1) set of preliminary street and storm water sewer profiles to the CITY for review and approval prior to proceeding with development of field check plans.
5. Preliminary Water Line and Sanitary Sewer Alignments and Profiles. Preliminary water and sanitary sewer alignments and grades are to be reviewed with the CITY by the ENGINEER for approval prior to proceeding to detail aspects of the work. The ENGINEER shall verify and coordinate work to be completed with the Public Works & Utilities Department.
6. Right-of-Way & Temporary Construction Easements. Identify permanent right-of-way and temporary construction easement requirements for the preliminary concepts developed. Such right-of-way and temporary construction easement requirements shall be provided on a strip map suitable for presentation at public meetings as required by the City Engineer.
7. Public Hearings. Assist the City in the conduct of a public hearing(s) on the proposed improvements for the PROJECT as necessary to inform the public, governmental agencies, and affected parties as to construction traffic control, construction sequence and methods, estimated time and duration of project construction, environmental assessment, right-of-way requirements, estimated project costs, etc. Provide adequate visual displays for public presentations and in electronic format for use in Power Point presentation.
8. S. I. & A. for Existing Bridges. For the duration of the project, the ENGINEER shall perform National Bridge Inventory (NBI) inspections as per the KDOT Bridge Inspection Manual in addition to load rating and updating the Structural Inventory and Appraisal (S. I. & A.) form for submittal to KDOT for all existing bridges within the project limits as per regular City inspection schedule.
9. Landscape Plans. When the design has fulfilled the program requirements, submit a PDF set of landscape plans to the CITY'S project manager. After the project manager approves the plans, he/she will submit the same to the Park Department for review and comments. When the Park Department has approved the plans, the ENGINEER may proceed with placing them on the Design Council agenda for review and comment, as directed by the CITY.
10. Design Council. As requested, ENGINEER shall meet with the City's Design Council to review the PROJECT design and interpret engineering drawings. The first presentation should be made at the point when the ENGINEER has arrived at a design which meets all of the functional requirements of the program and has been tentatively approved by the City staff person in charge. Before authorization is given to the ENGINEER to move on to design development, the PROJECT should be presented to the Design Council for review.

**B. PHASE II - PLAN DEVELOPMENT**

When authorized by the CITY, proceed with development of Plans for the PROJECT based on the preliminary design concepts approved by the CITY.

1. Design Council. As requested, ENGINEER shall meet with the City's Design Council to review the PROJECT design and interpret engineering drawings. The PROJECT should be presented when the design of the PROJECT has been perfected to the point where all design factors (shape, size, materials, colors, landscape, exterior relationship, amenities, etc.) have been decided and tentatively approved by staff. It is at this point that the design can be considered "frozen" and will not be changed

except for unforeseen conditions, which may arise.

(It should be noted it is in the ENGINEER'S best interest to reach design freeze and gain aesthetic approval as early in the project as possible. Whereas the Design Council does not presume to tell the ENGINEER or staff when in the planning process design freeze should take place, the amount of time and effort which the ENGINEER has invested in the development of construction documents or other activities will not be taken into consideration by the Design Council at the Design Freeze review.)

2. Field Check Plans. When authorized by the CITY, prepare field check plans and a preliminary cost estimate for the PROJECT based on approved preliminary concepts as required by the CITY. ENGINEER to submit one copy of preliminary cost estimate and two (2) sets of field check plans to the CITY and one copy of preliminary cost estimate and one electronic set of field check plans to KDOT, to be uploaded to the KDOT FTP site. ENGINEER to participate in a field check of the PROJECT with the CITY and with KDOT when required. Major items of work included in development of field check plans are:

- (a) Field Surveys. Provide engineering and technical personnel and equipment to obtain survey data as required for the engineering design. Utility companies shall be requested to flag or otherwise locate their facilities within the PROJECT limits prior to the ENGINEER conducting the field survey for the PROJECT. Utility information shall be clearly noted and identified on the plans.

- (b) Utility Coordination. Identify all potential utility conflicts and provide preliminary field check plans showing the problem locations, posted to the City's FTP site. **Plans will clearly identify specific utility company facilities by color and by name (i.e. not just "gas" or "fiber optic").** ENGINEER shall include a conflict list for each utility, also posted to the FTP site. ENGINEER shall meet with utility company representatives to review plans and utility verification forms (**Attachment No. 3 to Exhibit "A"**) at each milestone date and as directed by the CITY and as determined necessary by the ENGINEER. This information will be compiled into a summary report (**Attachment No. 4 to Exhibit "A"**) maintained and updated by ENGINEER as necessary to present a cohesive and reflective status of utilities, and provided to the City as necessary. **ENGINEER shall maintain involvement with utility companies until all conflicts have been resolved (not just identified).** When appropriate, the City Engineer will approve the identification on plans of conflicts to be resolved during construction. ENGINEER shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction.

- (c) Soils and Foundation Investigations. The CITY may authorize ENGINEER to direct an approved Testing Laboratory to perform subsurface borings and soils investigations for the PROJECT, which shall be reported in the format and detail required by the City Engineer for the City of Wichita. The Testing Laboratory shall be responsible for the accuracy and competence of their work. The ENGINEER'S contract with the Testing Laboratory shall provide that the Testing Laboratory is responsible to the City for the accuracy and competence of the Testing Laboratory's work. If required the cost of soils and boring investigations shall be prepared as a supplemental agreement between City of Wichita and the ENGINEER. This may be required for bridges, structures, retaining walls and other locations.

- (d) Property Acquisitions. Prepare right-of-way/easement tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions. ENGINEER will perform all necessary survey work associated with marking the additional right-of-way or easements. This shall include the permanent monumentation of new corners for any additional right-of-way and a one-time marking of all the right-of-way for utility relocations at a time directed by the CITY. **The ENGINEER shall perform all necessary title work and sufficient research for determination of current right-of-way and easements.**

- (e) Temporary Construction Easements. Prepare legal descriptions for Temporary Construction Easements (TCE) for all parcels where the construction limits extend beyond the existing/proposed right-of-way, and submit tract maps to the City that are suitable for mailing to property owners. The tract maps should include all features shown on the plans, including but not limited to structures, trees, fences, signs, monuments, etc, and should indicate if such items will be impacted within the required easement. *Incorporate TCE limits on the plans.*

- (f) **ENGINEER shall provide a clearly defined list of known encroachments into the existing right-of-way, including but not limited to structures, fences, planters, walls, etc.** The list shall be in tabular form and include the property address and owner information, approximate baseline station of the encroachment, and nature/description of the same.
- (g) **ENGINEER shall provide a list of proposed driveway closures, relocations or other changes.** The list shall be in tabular form and include the property address and owner information, approximate baseline station of the approach, and nature/description of the same.
3. **Office Check Plans.** When authorized by the CITY prepare office check plans for the PROJECT based upon comments as agreed upon in field check review. Major items of work included in development of office check plans are:
- (a) **Plan Submittal.** Submit two (2) sets of office check plans to the CITY, with one copy of supplemental specifications and one copy of cost estimates and quantities of work units of the PROJECT for office check. (Cost estimates to be based on current unit prices for similar work in the Wichita area unless otherwise directed by the CITY.) Field check plans marked with CITY and/or KDOT comments are to be returned to the CITY with office check plan submittals. ENGINEER to participate in an office check of the PROJECT with the CITY and KDOT when required.
- (b) **Utility Coordination.** Identify all potential utility conflicts and provide preliminary office check plans showing the problem locations, posted to the City's FTP site. **Plans will clearly identify specific utility company facilities by color and by name (i.e. not just "gas" or "fiber optic").** ENGINEER shall include a conflict list for each utility, also posted to the FTP site. ENGINEER shall meet with utility company representatives to review plans and utility verification forms **(Attachment No. 3 to Exhibit "A") at each milestone date and as directed by the CITY and as determined necessary by the ENGINEER.** This information will be compiled into a summary report **(Attachment No. 4 to Exhibit "A" also available on the City's FTP site)** maintained and updated by ENGINEER as necessary to present a cohesive and reflective status of utilities, and provided to the City as necessary. **ENGINEER shall maintain involvement with utility companies until all conflicts have been resolved (not just identified).** When appropriate, the City Engineer will approve the identification on plans of conflicts to be resolved during construction. ENGINEER shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction.
- (c) **Plan Requirements.** Office check plans shall include traffic signalization details, traffic signing details, pavement marking details, incidental drainage, construction phasing details (when applicable), construction traffic control details, and all other necessary construction details required for the PROJECT. The PROJECT'S plans and proposed special provisions shall address the requirements included in the City's Administrative Regulation 6.5, "Cleanup, Restoration or Replacement Following Construction."
- (d) **Permits.** The ENGINEER shall prepare any and all necessary permits for this PROJECT, such as the preparation of applications for U.S. Army Corps of Engineers (404) permits, Division of Water Resources permit, Kansas Department of Wildlife and Parks permit and Kansas Department of Health and Environment permit. Also if requested by the CITY, obtain construction approval from the U.S. Army Corps of Engineers and assist the CITY in coordinating the archaeological review of the PROJECT. **The ENGINEER shall be responsible for the cost of all permit fees that are required to complete the PROJECT. The cost shall be included in the design fee submitted by the ENGINEER.**
4. **Project Milestones.** The ENGINEER agrees to complete and deliver the field notes, preliminary and final plans, specifications and estimates to the CITY within the time allotted for the project as stipulated below; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond the control of the ENGINEER.

**Field Check Plans and an estimate for the project due by August 8, 2016.**

**Office Check Plans and an estimate for the project due by October 10, 2016.**

**Completion of all work required by this agreement (including submittal of final approved plans, field notes, and related project documents by December 12, 2016.**

5. Final Plans. When authorized by the CITY prepare final plans for the PROJECT based upon comments as agreed upon as a result of the office check review. Major items of work included in development of final plans are:
- (a) Prepare engineering plans (which shall include construction sequencing and traffic control), supplemental specifications, special provisions and construction cost estimates, or estimates of the quantities of work for the PROJECT.
  - (b) Final Plan Submittals. Final plans, field notes and other pertinent project mapping records are to be submitted per Attachment No. 1 to Exhibit "A".
  - (c) Technical construction specifications shall in general follow the City of Wichita's Standard Specifications and/or KDOT Standard Specifications supplemented as necessary to suit PROJECT requirements. Plan profile sheets shall also be required for water distribution system/water supply line improvements.
  - (d) ENGINEER shall provide a clearly defined list of known encroachments into the existing right-of-way, including but not limited to structures, fences, planters, walls, etc. The list shall be in tabular form and include the property address and owner information, approximate baseline station of the encroachment, and nature/description of the same. **The list of encroachments should reflect conditions at the time of final plan submittal.**
  - (e) ENGINEER shall provide a list proposed driveway closures, relocations or other changes. The list shall be in tabular form and include the property address and owner information, approximate baseline station of the approach, and nature/description of the same.
  - (f) Engineer's cost estimate information shall be submitted in tabular form and on a unit cost basis, as approved by the CITY and as required by KDOT. Pay items of work shall conform to the CITY's Master Bid Item List.
  - (g) Final plans when submitted shall be complete and ready for reproducing for distribution to prospective bidders.
  - (h) All applicable coordinate control points and related project staking information shall be furnished on the plans in the form of a bubble map, as well as on a CD-ROM in a text format agreed upon by the CITY. This coordinate information will be used by the CITY for construction staking purposes. See Attachment No. 2 to Exhibit "A" for required coordinate information.
  - (i) The date identified as the date of CITY acceptance of final plans and other supplementary work will be that date upon which the City Engineer ascertains that such plans and work are in accordance with all provisions of the contract for design services.
  - (j) ENGINEER shall provide the CITY with electronic files suitable for power point presentations to the Design Council and City Council.
6. Staking and Inspection If requested by the CITY, the ENGINEER will enter into a Supplemental Agreement to complete construction staking, material testing, inspection and administration related to the PROJECT.
7. Post Letting.
- (a) All shop drawings submitted by the contractor for the PROJECT shall be reviewed and, when acceptable, approved for construction by the ENGINEER for the PROJECT.
  - (b) The ENGINEER shall meet with effected property owners, along with City staff, at a pre-construction Public Information Meeting, as arranged by the City, to explain project design, including such issues as construction phasing and traffic control.
  - (c) New Right-of-Way Monumentation. The Engineer shall complete permanent monumentation of all new R/W after project completion, complete and submit all necessary legal documentation for same.
  - (d) Section Corner Monuments. The Engineer shall provide services required by KSA Chapter 58, Article 20, Statute 58-2011, any time a section corner or monument will be endangered, disturbed, or removed. The City of Wichita Construction Engineer will receive a copy of all Land Survey Reference Reports submitted to the Secretary of State Historical Society. All costs associated with this effort shall be the responsibility of the Engineer. The City will provide a three business day notice to the Engineer to mark the monument location for re-establishment after pavement work is completed. The City will then core and install a cast iron monument box and

cover. The Engineer will be notified within three business days after the box is installed to reset the final monument.

(e) S. I. & A. for Bridges. Upon completion of any and all bridge construction, the ENGINEER shall perform the National Bridge Inventory (NBI) inspection as per KDOT Bridge Inspection Manual, in addition to load rating and updating the Structural Inventory and Appraisal (S. I. & A.) form and completing the Item 113 Justification Form for the new bridges if applicable for submittal to KDOT for all bridges within the project limits regardless of initial structure size.

## **Attachment No. 1 to Exhibit "A" – CIP Scope of Services**

### **Plan Submittal**

*Water* projects plans shall be submitted with (1) set of mylar plans; and a CD of the .dwgs and .pdfs. This includes projects that have the water plans incorporated into that project, for which the cover sheet should also be included.

Storm Sewer, Sanitary Sewer and Paving plans shall be submitted in a .dwg and .pdf format on a CD.

In addition, two (2) sets of 11"x17" plans will be submitted at the time of final .pdf submittal for ALL projects, regardless of the type.

### **Storm Water Pollution Prevention**

For any project disturbing one acre of ground or more, the design Consultant must prepare a Notice of Intent and a Storm Water Pollution Prevention Plan and submit them to the KDHE for approval. Complete copies of the approved NOI and SWP3 must be provided to the City. One hard copy should be provided to the project engineer upon approval, one electronic copy should be included with your transmittal of PDF plan files, and one additional electronic copy should be sent to the attention of Mark Hall at the following address:

City of Wichita  
Storm Water  
455 N. Main 8<sup>th</sup> Floor  
Wichita, KS 67202

THIS INCLUDES ALL PROJECTS DISTURBING ONE ACRE OR MORE – I.E. NEW DEVELOPMENT, ARTERIAL STREETS, DIRT STREETS, BIKE PATHS, SEWER MAINS, ETC.

The City of Wichita will, under no circumstance, bid any project without first receiving copies of the KDHE approved NOI and SWP3.

The design of all City of Wichita construction projects must include the development of a site-specific erosion control plan. The site-specific erosion control plan must be included in the project plans. Every component and requirement of the erosion control plan must be separately and accurately accounted as a measured quantity bid item in the engineer's estimate.

Please note that careful consideration must be given to the transition of BMP maintenance responsibilities throughout the course of multi-phased projects. All intended responsibilities must be clearly demonstrated by the bid items. For example, if it is intended that the contractor of a subsequent waterline project be responsible for the maintenance of silt fence installed with a preceding sanitary sewer project, a measured quantity bid item must be submitted for x-lf of silt fence maintenance.

The City's current BMP standard detail sheets shall be included in all plans. These five sheets must be included in every plan set developed for the City of Wichita, regardless of project size.



## **Attachment No. 2 to Exhibit "A" – CIP Scope of Services**

### **Required Plan Coordinate Information**

#### **Arterial Street Projects & Infill (Existing Neighborhoods)**

##### **I. SANITARY SEWER**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments
- benchmarks, including TBM set with preliminary survey
- center of manholes
- end of manhole stubs (when longer than five feet)

##### **II. WATER LINE**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons; other set monuments; any necessary points for establishing BL, including P.I.'s in BL
- benchmarks, including TBM set with preliminary survey
- beginning and ends of pipe
- all P.I.'s/deflections (horizontal and vertical)
- FH's, tees, bends, air release, valves

##### **III. STORM SEWER**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments; any necessary points for establishing BL, including P.I.'s in BL
- benchmarks, including TBM set with preliminary survey
- center of inside face on Type 1/1A curb inlets; center of high edge on Type 2 curb inlets
- for skewed inlets typically in intersection radii, or not parallel to baseline – center of curb inlet **AND** center of inside face on Type 1/1A curb inlets; center of high edge on Type 2 curb inlets
- end of end section, at CL of pipe
- center, end of pipe at outside face of headwall; if headwall not perpendicular to pipe, each corner of headwall at outside face
- center of all drop inlets, manholes, and other structures
- center of RCBC at each end (outside face of hubguard); if box rotated, each corner, outside face

##### **IV. PAVING**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments; any necessary points for establishing BL, including P.I.'s in BL
- benchmarks, including TBM set with preliminary survey
- center of signal poles, service and junction boxes, controller, etc.; ends and P.I.'s for retaining walls, at back of walls

**THE SAME COORDINATE SYSTEM SHALL BE USED FOR ALL SEPARATE PHASES OF A LARGER INFILL OR ARTERIAL STREET PROJECT.**

**Sub-Division Projects**

**I. SANITARY SEWER**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey
- center of manholes
- back and/or front lot corners for specifically referenced easement grading, outside that included in mass grading projects; include coordinates for vertical P.I. locations not at lot corners
- end of manhole stubs (when longer than five feet)

**II. WATER DISTRIBUTION SYSTEM**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey
- beginning and ends of pipe
- all P.I.'s/deflections (horizontal and vertical)
- FH's, tees, bends, air release, valves

**III. WATER SUPPLY LINE**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments; any necessary points for establishing BL, including P.I.'s in BL
- benchmarks, including TBM set with preliminary survey
- beginning and ends of pipe
- all P.I.'s/deflections (horizontal and vertical)
- FH's, tees, bends, air release, valves

**IV. STORM SEWER**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey
- center of inside face on Type 1/1A curb inlets; center of high edge on Type 2 curb inlets
- for skewed inlets typically in intersection radii, or not parallel to baseline – center of curb inlet AND center of inside face on Type 1/1A curb inlets; center of high edge on Type 2 curb inlets
- end of end section, at CL of pipe
- center, end of pipe at outside face of headwall; if headwall not perpendicular to pipe, each corner of headwall at outside face
- center of all drop inlets, manholes, and other structures
- center of RCBC at each end (outside face of hubguard); if box rotated, each corner, outside face

**V. MASS GRADING**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey
- all lot corners
- any grade breaks between front & rear lot corners
- high points/low points within drainage easements
- street area
  - centerline @ 100' Sta on tangent sections
  - pc/pt points & 50' along curves
- special drainage swales
  - pc/pt points, pi's & 50' Sta in between
- ponds
  - any grades breaks between pond bottom and rear property line
  - pc/mid radius/pt around pond curves
- for irregular shaped lots (mainly commercial or industrial developments) provide TIN file

## VI. PAVING

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey

**In addition to the required coordinate information, the following shall be included in all plans, at a minimum, as needed for construction staking on all City projects.**

- Include copy of plat(s) on all plans, as relevant and approved by the Design Engineer
- Benchmarks – minimum of two City standards, four total desirable; as close to project as possible, even if TBM set with preliminary survey.
- Benchmark elevations must be in the same datum as the design (i.e. NAV 88 design needs NAV 88 benchmarks, not NAV 29)
- All control irons/identified property irons shall be shown on plans, with BL stationing and offset
- Show deflection angles in BL, and/or bearing/azimuth of BL sections
- Arterial project side streets – provide BL station at CL of intersection of the two streets, on the BL; BL station and offset to CL of side street at removal limits; include deflection angle from BL to CL of side street
- Existing FL/pavement grades shown at all match points
- Top of curb grades and stationing at all ends-of-return and horizontal/vertical P.I.'s, not just even stationing
- CL top of pavement grades for arterial
- CL elevation for streets on mass grading work @ 100' Sta in tangent sections and 50' on curves.
- **ELEVATION SHALL BE TO TOP OF ROCK BASE.**
- BL station and offset at all R/W changes; include R/W corners at all intersections, even if no change in R/W
- Clearly show existing grades at R/W and beyond; identify removal limits beyond R/W (for grade purposes) with BL station and offset, or dimension from R/W
- Show offset distance between BL and proposed street CL when not the same; establish clear relationship between the two
- BL station and offset to center of signal poles, service and junction boxes, controllers, etc.
- BL station and offset to back of retaining walls, at ends of walls and all P.I.'s
- Concrete pavement – provide detailed joint pattern, dimensions, and elevations for all valley gutters, intersections, and mainline pavement; should be separate plan sheet(s) with clear and project-specific details
- Storm Sewer – BL station and offset for all curb inlets, drop inlets, manholes, and other structures (to the coordinate point locations detailed in previous sheets); same for SS and WL – pertinent facilities should be referenced to BL station and offset
- Sanitary Sewer – show deflection angles between MH's
- Flow line elevations for manhole stubs

- Curve Tables – should include bends, tees, valves, FH's etc. for waterlines; ends-of-return, P.I.'s, etc. for paving
- Should be able to accurately scale off of plans

**Attachment No. 3 to Exhibit "A" – CIP Scope of Services**

**Project Name**

**Utility Location Verification for ULCC Sub-Committee (Date)**

Field Check: ☐ Office Check: ☐

UTILITY: \_\_\_\_\_ Checked by \_\_\_\_\_ on \_\_\_\_\_

**Utility Location:**

- |   |   |
|---|---|
| <input type="checkbox"/> None in Project Limits   | <input type="checkbox"/> In Project Limits, No Relocation Necessary |
| <input type="checkbox"/> Utility will need to relocate  | <input type="checkbox"/> Utility is located in Private Easement     |
|   | <input type="checkbox"/> Private Easement Documentation Attached    |
| <input type="checkbox"/> Utility will need to relocate and is interested in <u>proposed</u> ROW (IF applicable) |   |

**Briefly Describe Type and Location of Facilities within Project:**

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Estimate Time for Relocation: ☐ < 3 months ☐ 3-6 months ☐ 6-9 months ☐ > 9 months

Weather Sensitive: ☐ Yes ☐ No If yes, please explain: \_\_\_\_\_

Factors prerequisite to or that could affect relocation process (i.e. Regulatory Requirements):

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**Utility Plan Review:**

☐ Correct as Shown ☐ Corrections needed ☐ Attachments provided for Consultant

Corrections necessary on plan sheets:

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Additional Information requested from Consultant: \_\_\_\_\_

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Utility Requests Paper Plans (choose one): ☐ Full Size ☐ Half Size ☐ Cross-Sections (Full Size)

Please email this form on or before Date to:

Project Engineer Consultant  
Company  
E-mail

Leslie Hicks  
City of Wichita  
lhicks@wichita.gov

**Attachment No. 4 to Exhibit "A" – CIP Scope of Services**

Individual Project Name (i.e., Amidon, 21st to 29th Street North)												
Current Date	EDOT Proj. NO/ City Proj. NO.	City Design Manager	Consultant	Date of First ULOC	Date of Second ULOC	Date of Plan Revision Distribution	Date of Second Plan Revision Distribution	R/W Purchased Y/N	Date Utilities notified of R/W completion	Project Proposed Bid Date	Proposed Utility Clear Date (project)	
2/21/2013	1111111/ 222222	Kallman	Ken Lee/ Richard S. Bickel	2/21/2013	2/21/2013			No				
				Utility needs to relocate (Y/N)	Utility in Private Encroachment (Y/N)			Utility needs PROPOSED R/W to relocate (Y/N)	Relocation Whether Sensitive (Y/N)	Estimated Date of Utility Design Completion	Time needed for relocation after utility design complete	Individual Utility Clear Date
<b>Westar (Distribution)</b>												
Location in Project: (Describe Existing Facilities)												
Relocation Needs:												
Comments:												
<b>Westar (Transmission)</b>												
Location in Project: (Describe Existing Facilities)												
Relocation Needs:												
Comments:												

KGSS
Location in Project: (Describe Existing Facilities)
Relocation Needs:
Comments:
Black Hills
Location in Project: (Describe Existing Facilities)
Relocation Needs:
Comments:
AT&T
Location in Project: (Describe Existing Facilities)
Relocation Needs:
Comments:

<b>Cox</b>
<b>Location in Project:</b> (Describe Existing Facilities)
<b>Relocation Needs:</b>
<b>Comments:</b>
<b>Water</b>
<b>Location in Project:</b> (Describe Existing Facilities)
<b>Relocation Needs:</b>
<b>Comments:</b>
<b>Sanitary Sewer</b>
<b>Location in Project:</b> (Describe Existing Facilities)
<b>Relocation Needs:</b>
<b>Comments:</b>



Stormwater
Location in Project: (Describe Existing Facilities)
Relocation Needs:
Comments:
Other
Location in Project: (Describe Existing Facilities)
Relocation Needs:
Comments:

**EXHIBIT "B"**

**REVISED NON-DISCRIMINATION AND  
EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM  
REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS**

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.
- B. Requirements of the State of Kansas:
  - 1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;
  - 2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";
  - 3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
  - 4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
  - 5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.
- C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:
  - 1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;
  - 2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;
  - 3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be

deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;

4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.
5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

AGREEMENT

for

PROFESSIONAL SERVICES

between

THE CITY OF WICHITA, KANSAS

and

MKEC ENGINEERING, INC.

for

SILVERDALE WATER MAIN REPLACEMENT

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and MKEC ENGINEERING, INC., party of the second part, hereinafter called the "ENGINEER".

WHEREAS, the CITY intends to construct;

**SILVERDALE WATER MAIN REPLACEMENT** (Project No. 448-90720).

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. SCOPE OF SERVICES

The ENGINEER shall furnish professional services as required for designing water improvements in Silverdale Water Main Replacement and to perform the PROJECT tasks outlined in the SCOPE OF SERVICES (Exhibit "A").

II. IN ADDITION, THE ENGINEER AGREES

- A. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in Exhibit "A".
- B. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.
- C. To make available during regular office hours, all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this agreement.
- D. To save and hold CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.

- E. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY.
- F. To comply with all Federal, State and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply with the CITY'S Affirmative Action Program as set forth in Exhibit "B" which is attached hereto and adopted by reference as though fully set forth herein.
- G. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.
- H. To complete the services to be performed by ENGINEER within the time allotted for the PROJECT in accordance with Exhibit "A"; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond control of the ENGINEER.
- I. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ENGINEER under this agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by ENGINEER, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.
- J. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement. Such policy of insurance shall be in an amount not less than \$500,000.00 subject to a deductible of \$10,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

Workman's Compensation - Statutory  
Employer's Liability - \$500,000 each occurrence.

Further, a comprehensive general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER against all claims arising from injuries to persons (other than ENGINEER'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this agreement. The liability limit shall not be less than \$500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time ENGINEER starts any work under this agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.

- K. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s) designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this agreement. The ENGINEER shall also advise the CITY of any changes in the person designated Project Manager. Written notification shall be provided to the CITY for any changes exceeding one week in length of time.

### III. THE CITY AGREES:

- A. To furnish all available data pertaining to the PROJECT now in the CITY'S files at no cost to the ENGINEER. Confidential materials so furnished will be kept confidential by the ENGINEER.
- B. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ENGINEER, except as specified in Exhibit "A".
- C. To pay the ENGINEER for his services in accordance with the requirements of this agreement.

- D. To provide the right-of-entry for ENGINEER'S personnel in performing field surveys and inspections.
- E. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The CITY agrees to advise, the ENGINEER, in writing, of the person(s) designated as Project Manager with the issuance of the notice to proceed on the work required by this agreement. The CITY shall also advise the ENGINEER of any changes in the person(s) designated Project Manager. Written notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.
- F. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

IV. PAYMENT PROVISIONS

- A. Payment to the ENGINEER for the performance of the professional services required by this agreement shall be made on the basis of the not to exceed fee amount specified below:

**Project No. 448 90720                      \$ 225,000**

- B. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:
  - 1. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the PROJECT.
  - 2. Additional design services not covered by the scope of this agreement.
  - 3. Construction staking, material testing, inspection and administration related to the PROJECT.
  - 4. A major change in the scope of services for the PROJECT.
 If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.

V. THE PARTIES HERETO MUTUALLY AGREE:

- A. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the ENGINEER'S inability to proceed with the work.
- B. That the field notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that CITY shall hold ENGINEER harmless from any and all claims, damages or causes of action which arise out of such further use when such further use is not in connection with the PROJECT.
- C. That the services to be performed by the ENGINEER under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.
- D. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by the CITY, provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefor.
- E. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.
- F. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement shall be construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.
- G. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.
- H. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this agreement as of the date first written above.

BY ACTION OF THE CITY COUNCIL

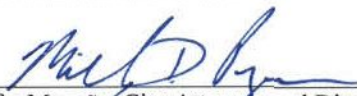
\_\_\_\_\_  
Jeff Longwell, Mayor

SEAL:

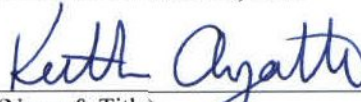
ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Jennifer Magaña, City Attorney and Director of Law  
for

MKEC ENGINEERING, INC.

  
\_\_\_\_\_  
(Name & Title)  
Keith Ayotte, Project Manager

## EXHIBIT "A"

### SCOPE OF SERVICES

#### CAPITAL IMPROVEMENT PROGRAM (CIP) PROJECTS

Upon award of this project the ENGINEER will contact utility companies directly and determine from the existing records the location of all utilities. Coordination with the utility companies involved will include a conceptual plan jointly developed with the utility company indicating the methods employed to resolve utility conflicts. The conceptual plan should include elements of designing around the utility, analysis of construction expense vs. design expense, and utility company expenses to resolve conflicts.

On projects that disturb one acre or more, the ENGINEER will prepare a storm water pollution prevention plan, prepare the necessary permit application(s) and include any provisions or requirements in the project plans and special provisions. The storm water pollution prevention plan shall also include submittal of a Notice of Intent (NOI) prior to bidding; site-specific erosion control plan; and standard Best Management Practice (BMP) detail sheets per Attachment No. 1 to Exhibit "A".

Associated improvements as part of these projects will include, when applicable: permanent traffic signalization system improvements, permanent traffic signing, permanent pavement markings, construction traffic control, construction phasing, incidental drainage, sidewalk, identification of additional right-of-way and furnishing tract drawings and legal descriptions for such right-of-way.

The ENGINEER shall furnish engineering services as required for the best and most cost effective design for the development of the project and provide project alternatives where applicable, including landscaping and beautification provisions on streets where appropriate in available right-of-way; the project plans; supplemental specifications; quantities of work; and estimates of the cost for the PROJECT in the format and detail required by the City Engineer for the City of Wichita; and the Kansas Department of Transportation (KDOT); and the U.S. Army Corps of Engineers, or any other regulatory agency, when applicable. The project alternatives, including proposed landscaping, are to be presented to the City's Design Council, when directed by the Design Engineer, for concurrence in selection prior to progressing to detailed aspects of the work. ENGINEER should use plant material that is drought resistant and requires low maintenance in a xeriscape concept, and is consistent with the City of Wichita Landscape Policy for Arterial Streets. A landscape architect should be included on the ENGINEER's Design Team.

The ENGINEER should identify all trees that may be in conflict or jeopardy of damage by construction activities and then review with Park Department to determine if the trees can be saved and/or moved. In addition, the ENGINEER will notify the City Archaeologist at 316-978-3195 prior to beginning work on this project.

All references below to KDOT only apply to State and Federal Aid projects.

THIS IS NOT A STATE/FEDERAL AID CONTRACT.

In connection with the services to be provided, the ENGINEER shall:

#### A. PHASE I - PRELIMINARY CONCEPT DEVELOPMENT

When authorized by the CITY and where applicable, proceed with development of Study and Alternative Concepts for the PROJECT in the detail deemed necessary to permit the preparation of preliminary and final plans for construction of the improvements based on the preliminary information provided to the ENGINEER.

1. Review Alternative Design Concepts. Review alternative design concepts with the City Engineer or his designated representative prior to progressing to detail aspects of the work. Alternative concepts as ascertained shall be reviewed and discussed with the City Engineer or his designated representative for concurrence in determining the best horizontal and vertical alignments for the PROJECT. CITY'S



concurrence in selection of an alternate or preliminary concept will be contingent on the accuracy and completeness of the background information provided by the ENGINEER used in the evaluation process.

2. Review Preliminary Design Concepts. Review preliminary design concepts with the City Engineer for the City of Wichita prior to progressing to detail aspects of the work. Preliminary design concepts shall be provided on a strip map suitable for presentation at public meetings as required by the City Engineer of the City of Wichita.
3. Drainage Study. When authorized, conduct a detailed study to explore alternative design concepts concerning drainage for the PROJECT. Present the findings in writing identifying recommendations to the CITY, including preliminary cost estimates, prior to development of field check plans. Such written findings and recommendations must be in a format which is self-explanatory and readily understood by persons with average backgrounds for the technology involved.
4. Preliminary Street and Storm Water Sewer Alignments and Profiles. Prepare preliminary street geometrics/alignments with proposed street and storm water sewer grades to conform to the drainage plan for the PROJECT. The drainage plan and computations shall be submitted along with one (1) set of preliminary street and storm water sewer profiles to the CITY for review and approval prior to proceeding with development of field check plans.
5. Preliminary Water Line and Sanitary Sewer Alignments and Profiles. Preliminary water and sanitary sewer alignments and grades are to be reviewed with the CITY by the ENGINEER for approval prior to proceeding to detail aspects of the work. The ENGINEER shall verify and coordinate work to be completed with the Public Works & Utilities Department.
6. Right-of-Way & Temporary Construction Easements. Identify permanent right-of-way and temporary construction easement requirements for the preliminary concepts developed. Such right-of-way and temporary construction easement requirements shall be provided on a strip map suitable for presentation at public meetings as required by the City Engineer.
7. Public Hearings. Assist the City in the conduct of a public hearing(s) on the proposed improvements for the PROJECT as necessary to inform the public, governmental agencies, and affected parties as to construction traffic control, construction sequence and methods, estimated time and duration of project construction, environmental assessment, right-of-way requirements, estimated project costs, etc. Provide adequate visual displays for public presentations and in electronic format for use in Power Point presentation.
8. S. I. & A. for Existing Bridges. For the duration of the project, the ENGINEER shall perform National Bridge Inventory (NBI) inspections as per the KDOT Bridge Inspection Manual in addition to load rating and updating the Structural Inventory and Appraisal (S. I. & A.) form for submittal to KDOT for all existing bridges within the project limits as per regular City inspection schedule.
9. Landscape Plans. When the design has fulfilled the program requirements, submit a PDF set of landscape plans to the CITY'S project manager. After the project manager approves the plans, he/she will submit the same to the Park Department for review and comments. When the Park Department has approved the plans, the ENGINEER may proceed with placing them on the Design Council agenda for review and comment, as directed by the CITY.
10. Design Council. As requested, ENGINEER shall meet with the City's Design Council to review the PROJECT design and interpret engineering drawings. The first presentation should be made at the point when the ENGINEER has arrived at a design which meets all of the functional requirements of the program and has been tentatively approved by the City staff person in charge. Before authorization is given to the ENGINEER to move on to design development, the PROJECT should be presented to the Design Council for review.

#### B. PHASE II - PLAN DEVELOPMENT

When authorized by the CITY, proceed with development of Plans for the PROJECT based on the preliminary design concepts approved by the CITY.

1. Design Council. As requested, ENGINEER shall meet with the City's Design Council to review the PROJECT design and interpret engineering drawings. The PROJECT should be presented when the design of the PROJECT has been perfected to the point where all design factors (shape, size, materials, colors, landscape, exterior relationship, amenities, etc.) have been decided and tentatively approved by staff. It is at this point that the design can be considered "frozen" and will not be changed

except for unforeseen conditions, which may arise.

(It should be noted it is in the ENGINEER'S best interest to reach design freeze and gain aesthetic approval as early in the project as possible. Whereas the Design Council does not presume to tell the ENGINEER or staff when in the planning process design freeze should take place, the amount of time and effort which the ENGINEER has invested in the development of construction documents or other activities will not be taken into consideration by the Design Council at the Design Freeze review.)

2. Field Check Plans. When authorized by the CITY, prepare field check plans and a preliminary cost estimate for the PROJECT based on approved preliminary concepts as required by the CITY. ENGINEER to submit one copy of preliminary cost estimate and two (2) sets of field check plans to the CITY and one copy of preliminary cost estimate and one electronic set of field check plans to KDOT, to be uploaded to the KDOT FTP site. ENGINEER to participate in a field check of the PROJECT with the CITY and with KDOT when required. Major items of work included in development of field check plans are:

- (a) Field Surveys. Provide engineering and technical personnel and equipment to obtain survey data as required for the engineering design. Utility companies shall be requested to flag or otherwise locate their facilities within the PROJECT limits prior to the ENGINEER conducting the field survey for the PROJECT. Utility information shall be clearly noted and identified on the plans.

- (b) Utility Coordination. Identify all potential utility conflicts and provide preliminary field check plans showing the problem locations, posted to the City's FTP site. **Plans will clearly identify specific utility company facilities by color and by name (i.e. not just "gas" or "fiber optic").** ENGINEER shall include a conflict list for each utility, also posted to the FTP site. ENGINEER shall meet with utility company representatives to review plans and utility verification forms (**Attachment No. 3 to Exhibit "A"**) at each milestone date and as directed by the CITY and as determined necessary by the ENGINEER. This information will be compiled into a summary report (**Attachment No. 4 to Exhibit "A"**) maintained and updated by ENGINEER as necessary to present a cohesive and reflective status of utilities, and provided to the City as necessary. **ENGINEER shall maintain involvement with utility companies until all conflicts have been resolved (not just identified).** When appropriate, the City Engineer will approve the identification on plans of conflicts to be resolved during construction. ENGINEER shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction.

- (c) Soils and Foundation Investigations. The CITY may authorize ENGINEER to direct an approved *Testing Laboratory to perform subsurface borings and soils investigations* for the PROJECT, which shall be reported in the format and detail required by the City Engineer for the City of Wichita. The Testing Laboratory shall be responsible for the accuracy and competence of their work. The ENGINEER'S contract with the Testing Laboratory shall provide that the Testing Laboratory is responsible to the City for the accuracy and competence of the Testing Laboratory's work. If required the cost of soils and boring investigations shall be prepared as a supplemental agreement between City of Wichita and the ENGINEER. This may be required for bridges, structures, retaining walls and other locations.

- (d) Property Acquisitions. Prepare right-of-way/easement tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions. ENGINEER will perform all necessary survey work associated with marking the additional right-of-way or easements. This shall include the permanent monumentation of new corners for any additional right-of-way and a one-time marking of all the right-of-way for utility relocations at a time directed by the CITY. **The ENGINEER shall perform all necessary title work and sufficient research for determination of current right-of-way and easements.**

- (e) Temporary Construction Easements. Prepare legal descriptions for Temporary Construction Easements (TCE) for all parcels where the construction limits extend beyond the existing/proposed right-of-way, and submit tract maps to the City that are suitable for mailing to property owners. The tract maps should include all features shown on the plans, including but not limited to structures, trees, fences, signs, monuments, etc, and should indicate if such items will be impacted within the required easement. Incorporate TCE limits on the plans.

- (f) **ENGINEER shall provide a clearly defined list of known encroachments into the existing right-of-way, including but not limited to structures, fences, planters, walls, etc.** The list shall be in tabular form and include the property address and owner information, approximate baseline station of the encroachment, and nature/description of the same.
- (g) **ENGINEER shall provide a list of proposed driveway closures, relocations or other changes.** The list shall be in tabular form and include the property address and owner information, approximate baseline station of the approach, and nature/description of the same.
3. **Office Check Plans.** When authorized by the CITY prepare office check plans for the PROJECT based upon comments as agreed upon in field check review. Major items of work included in development of office check plans are:
- (a) **Plan Submittal.** Submit two (2) sets of office check plans to the CITY, with one copy of supplemental specifications and one copy of cost estimates and quantities of work units of the PROJECT for office check. (Cost estimates to be based on current unit prices for similar work in the Wichita area unless otherwise directed by the CITY.) Field check plans marked with CITY and/or KDOT comments are to be returned to the CITY with office check plan submittals. ENGINEER to participate in an office check of the PROJECT with the CITY and KDOT when required.
- (b) **Utility Coordination.** Identify all potential utility conflicts and provide preliminary office check plans showing the problem locations, posted to the City's FTP site. **Plans will clearly identify specific utility company facilities by color and by name (i.e. not just "gas" or "fiber optic").** ENGINEER shall include a conflict list for each utility, also posted to the FTP site. ENGINEER shall meet with utility company representatives to review plans and utility verification forms (**Attachment No. 3 to Exhibit "A"**) at each milestone date and as directed by the CITY and as determined necessary by the ENGINEER. This information will be compiled into a summary report (**Attachment No. 4 to Exhibit "A" also available on the City's FTP site**) maintained and updated by ENGINEER as necessary to present a cohesive and reflective status of utilities, and provided to the City as necessary. **ENGINEER shall maintain involvement with utility companies until all conflicts have been resolved (not just identified).** When appropriate, the City Engineer will approve the identification on plans of conflicts to be resolved during construction. ENGINEER shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction.
- (c) **Plan Requirements.** Office check plans shall include traffic signalization details, traffic signing details, pavement marking details, incidental drainage, construction phasing details (when applicable), construction traffic control details, and all other necessary construction details required for the PROJECT. The PROJECT'S plans and proposed special provisions shall address the requirements included in the City's Administrative Regulation 6.5, "Cleanup, Restoration or Replacement Following Construction."
- (d) **Permits.** The ENGINEER shall prepare any and all necessary permits for this PROJECT, such as the preparation of applications for U.S. Army Corps of Engineers (404) permits, Division of Water Resources permit, Kansas Department of Wildlife and Parks permit and Kansas Department of Health and Environment permit. Also if requested by the CITY, obtain construction approval from the U.S. Army Corps of Engineers and assist the CITY in coordinating the archaeological review of the PROJECT. **The ENGINEER shall be responsible for the cost of all permit fees that are required to complete the PROJECT. The cost shall be included in the design fee submitted by the ENGINEER.**
4. **Project Milestones.** The ENGINEER agrees to complete and deliver the field notes, preliminary and final plans, specifications and estimates to the CITY within the time allotted for the project as stipulated below; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond the control of the ENGINEER.
- Field Check Plans and an estimate for the project due by August 8, 2016.**  
**Office Check Plans and an estimate for the project due by October 10, 2016.**  
**Completion of all work required by this agreement (including submittal of final approved plans, field notes, and related project documents by December 12, 2016.**

5. **Final Plans.** When authorized by the CITY prepare final plans for the PROJECT based upon comments as agreed upon as a result of the office check review. Major items of work included in development of final plans are:
  - (a) Prepare engineering plans (which shall include construction sequencing and traffic control), supplemental specifications, special provisions and construction cost estimates, or estimates of the quantities of work for the PROJECT.
  - (b) Final Plan Submittals. Final plans, field notes and other pertinent project mapping records are to be submitted per **Attachment No. 1 to Exhibit "A"**.
  - (c) Technical construction specifications shall in general follow the City of Wichita's Standard Specifications and/or KDOT Standard Specifications supplemented as necessary to suit PROJECT requirements. Plan profile sheets shall also be required for water distribution system/water supply line improvements.
  - (d) **ENGINEER shall provide a clearly defined list of known encroachments into the existing right-of-way, including but not limited to structures, fences, planters, walls, etc. The list shall be in tabular form and include the property address and owner information, approximate baseline station of the encroachment, and nature/description of the same. The list of encroachments should reflect conditions at the time of final plan submittal.**
  - (e) ENGINEER shall provide a list proposed driveway closures, relocations or other changes. The list shall be in tabular form and include the property address and owner information, approximate baseline station of the approach, and nature/description of the same.
  - (f) Engineer's cost estimate information shall be submitted in tabular form and on a unit cost basis, as approved by the CITY and as required by KDOT. Pay items of work shall conform to the CITY's Master Bid Item List.
  - (g) Final plans when submitted shall be complete and ready for reproducing for distribution to prospective bidders.
  - (h) All applicable coordinate control points and related project staking information shall be furnished on the plans in the form of a bubble map, as well as on a CD-ROM in a text format agreed upon by the CITY. This coordinate information will be used by the CITY for construction staking purposes. See **Attachment No. 2 to Exhibit "A"** for required coordinate information.
  - (i) The date identified as the date of CITY acceptance of final plans and other supplementary work will be that date upon which the City Engineer ascertains that such plans and work are in accordance with all provisions of the contract for design services.
  - (j) ENGINEER shall provide the CITY with electronic files suitable for power point presentations to the Design Council and City Council.
6. **Staking and Inspection** If requested by the CITY, the ENGINEER will enter into a Supplemental Agreement to complete construction staking, material testing, inspection and administration related to the PROJECT.
7. **Post Letting.**
  - (a) All shop drawings submitted by the contractor for the PROJECT shall be reviewed and, when acceptable, approved for construction by the ENGINEER for the PROJECT.
  - (b) The ENGINEER shall meet with effected property owners, along with City staff, at a pre-construction Public Information Meeting, as arranged by the City, to explain project design, including such issues as construction phasing and traffic control.
  - (c) **New Right-of-Way Monumentation.** The Engineer shall complete permanent monumentation of all new R/W after project completion, complete and submit all necessary legal documentation for same.
  - (d) **Section Corner Monuments.** The Engineer shall provide services required by KSA Chapter 58, Article 20, Statute 58-2011, any time a section corner or monument will be endangered, disturbed, or removed. The City of Wichita Construction Engineer will receive a copy of all Land Survey Reference Reports submitted to the Secretary of State Historical Society. All costs associated with this effort shall be the responsibility of the Engineer. The City will provide a three business day notice to the Engineer to mark the monument location for re-establishment after pavement work is completed. The City will then core and install a cast iron monument box and

cover. The Engineer will be notified within three business days after the box is installed to reset the final monument.

**(e) S. I. & A. for Bridges.** Upon completion of any and all bridge construction, the ENGINEER shall perform the National Bridge Inventory (NBI) inspection as per KDOT Bridge Inspection Manual, in addition to load rating and updating the Structural Inventory and Appraisal (S. I. & A.) form and completing the Item 113 Justification Form for the new bridges if applicable for submittal to KDOT for all bridges within the project limits regardless of initial structure size.

## **Attachment No. 1 to Exhibit "A" – CIP Scope of Services**

### **Plan Submittal**

Water projects plans shall be submitted with (1) set of mylar plans; and a CD of the .dwgs and .pdfs. This includes projects that have the water plans incorporated into that project, for which the cover sheet should also be included.

Storm Sewer, Sanitary Sewer and Paving plans shall be submitted in a .dwg and .pdf format on a CD.

In addition, two (2) sets of 11"x17" plans will be submitted at the time of final .pdf submittal for ALL projects, regardless of the type.

### **Storm Water Pollution Prevention**

For any project disturbing one acre of ground or more, the design Consultant must prepare a Notice of Intent and a Storm Water Pollution Prevention Plan and submit them to the KDHE for approval. Complete copies of the approved NOI and SWP3 must be provided to the City. One hard copy should be provided to the project engineer upon approval, one electronic copy should be included with your transmittal of PDF plan files, and one additional electronic copy should be sent to the attention of Mark Hall at the following address:

City of Wichita  
Storm Water  
455 N. Main 8<sup>th</sup> Floor  
Wichita, KS 67202

THIS INCLUDES **ALL** PROJECTS DISTURBING ONE ACRE OR MORE – I.E. NEW DEVELOPMENT, ARTERIAL STREETS, DIRT STREETS, BIKE PATHS, SEWER MAINS, ETC.

The City of Wichita will, under no circumstance, bid any project without first receiving copies of the KDHE approved NOI and SWP3.

The design of all City of Wichita construction projects must include the development of a site-specific erosion control plan. The site-specific erosion control plan must be included in the project plans. Every component and requirement of the erosion control plan must be separately and accurately accounted as a measured quantity bid item in the engineer's estimate.

Please note that careful consideration must be given to the transition of BMP maintenance responsibilities throughout the course of multi-phased projects. All intended responsibilities must be clearly demonstrated by the bid items. For example, if it is intended that the contractor of a subsequent waterline project be responsible for the maintenance of silt fence installed with a preceding sanitary sewer project, a measured quantity bid item must be submitted for x-lf of silt fence maintenance.

The City's current BMP standard detail sheets shall be included in all plans. These five sheets must be included in every plan set developed for the City of Wichita, regardless of project size.

## **Attachment No. 2 to Exhibit "A" – CIP Scope of Services**

### **Required Plan Coordinate Information**

#### **Arterial Street Projects & Infill (Existing Neighborhoods)**

##### **I. SANITARY SEWER**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments
- benchmarks, including TBM set with preliminary survey
- center of manholes
- end of manhole stubs (when longer than five feet)

##### **II. WATER LINE**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments; any necessary points for establishing BL, including P.I.'s in BL
- benchmarks, including TBM set with preliminary survey
- beginning and ends of pipe
- all P.I.'s/deflections (horizontal and vertical)
- FH's, tees, bends, air release, valves

##### **III. STORM SEWER**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments; any necessary points for establishing BL, including P.I.'s in BL
- benchmarks, including TBM set with preliminary survey
- center of inside face on Type 1/1A curb inlets; center of high edge on Type 2 curb inlets
- for skewed inlets typically in intersection radii, or not parallel to baseline – center of curb inlet AND center of inside face on Type 1/1A curb inlets; center of high edge on Type 2 curb inlets
- end of end section, at CL of pipe
- center, end of pipe at outside face of headwall; if headwall not perpendicular to pipe, each corner of headwall at outside face
- center of all drop inlets, manholes, and other structures
- center of RCBC at each end (outside face of hubguard); if box rotated, each corner, outside face

##### **IV. PAVING**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments; any necessary points for establishing BL, including P.I.'s in BL
- benchmarks, including TBM set with preliminary survey
- center of signal poles, service and junction boxes, controller, etc.; ends and P.I.'s for retaining walls, at back of walls

**THE SAME COORDINATE SYSTEM SHALL BE USED FOR ALL SEPARATE PHASES OF A LARGER INFILL OR ARTERIAL STREET PROJECT.**

**Sub-Division Projects**

**I. SANITARY SEWER**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey
- center of manholes
- back and/or front lot corners for specifically referenced easement grading, outside that included in mass grading projects; include coordinates for vertical P.I. locations not at lot corners
- end of manhole stubs (when longer than five feet)

**II. WATER DISTRIBUTION SYSTEM**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey
- beginning and ends of pipe
- all P.I.'s/deflections (horizontal and vertical)
- FH's, tees, bends, air release, valves

**III. WATER SUPPLY LINE**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments; any necessary points for establishing BL, including P.I.'s in BL
- benchmarks, including TBM set with preliminary survey
- beginning and ends of pipe
- all P.I.'s/deflections (horizontal and vertical)
- FH's, tees, bends, air release, valves

**IV. STORM SEWER**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey
- center of inside face on Type 1/1A curb inlets; center of high edge on Type 2 curb inlets
- for skewed inlets typically in intersection radii, or not parallel to baseline – center of curb inlet AND center of inside face on Type 1/1A curb inlets; center of high edge on Type 2 curb inlets
- end of end section, at CL of pipe
- center, end of pipe at outside face of headwall; if headwall not perpendicular to pipe, each corner of headwall at outside face
- center of all drop inlets, manholes, and other structures
- center of RCBC at each end (outside face of hubguard); if box rotated, each corner, outside face

**V. MASS GRADING**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:



- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey
- all lot corners
- any grade breaks between front & rear lot corners
- high points/low points within drainage easements
- street area
  - centerline @ 100' Sta on tangent sections
  - pc/pt points & 50' along curves
- special drainage swales
  - pc/pt points, pi's & 50' Sta in between
- ponds
  - any grades breaks between pond bottom and rear property line
  - pc/mid radius/pt around pond curves
- for irregular shaped lots (mainly commercial or industrial developments) provide TIN file

## **VI. PAVING**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey

**In addition to the required coordinate information, the following shall be included in all plans, at a minimum, as needed for construction staking on all City projects.**

- Include copy of plat(s) on all plans, as relevant and approved by the Design Engineer
  - Benchmarks – minimum of two City standards, four total desirable; as close to project as possible, even if TBM set with preliminary survey.
  - Benchmark elevations must be in the same datum as the design (i.e. NAV 88 design needs NAV 88 benchmarks, not NAV 29)
  - All control irons/identified property irons shall be shown on plans, with BL stationing and offset
  - Show deflection angles in BL, and/or bearing/azimuth of BL sections
  - Arterial project side streets – provide BL station at CL of intersection of the two streets, on the BL; BL station and offset to CL of side street at removal limits; include deflection angle from BL to CL of side street
  - Existing FL/pavement grades shown at all match points
  - Top of curb grades and stationing at all ends-of-return and horizontal/vertical P.I.'s, not just even stationing
  - CL top of pavement *grades* for arterial
  - CL elevation for streets on mass grading work @ 100' Sta in tangent sections and 50' on curves.
- ELEVATION SHALL BE TO TOP OF ROCK BASE.**
- BL station and offset at all R/W changes; include R/W corners at all intersections, even if no change in R/W
  - Clearly show existing grades at R/W and beyond; identify removal limits beyond R/W (for grade purposes) with BL station and offset, or dimension from R/W
  - Show offset distance between BL and proposed street CL when not the same; establish clear relationship between the two
  - BL station and offset to center of signal poles; service and junction boxes, controllers, etc.
  - BL station and offset to back of retaining walls, at ends of walls and all P.I.'s
  - Concrete pavement – provide detailed joint pattern, dimensions, and elevations for all valley gutters, intersections, and mainline pavement; should be separate plan sheet(s) with clear and project-specific details
  - Storm Sewer – BL station and offset for all curb inlets, drop inlets, manholes, and other structures (to the coordinate point locations detailed in previous sheets); same for SS and WL – pertinent facilities should be referenced to BL station and offset
  - Sanitary Sewer – show deflection angles between MH's
  - Flow line elevations for manhole stubs

- Curve Tables – should include bends, tees, valves, FH's etc. for waterlines; ends-of-return, P.I.'s, etc. for paving
- Should be able to accurately scale off of plans

Attachment No. 3 to Exhibit "A" – CIP Scope of Services

**Project Name**

**Utility Location Verification for ULCC Sub-Committee (Date)**

Field Check: ☐ Office Check: ☐

UTILITY: \_\_\_\_\_ Checked by \_\_\_\_\_ on \_\_\_\_\_

**Utility Location:**

- |   |   |
|---|---|
| <input type="checkbox"/> None in Project Limits   | <input type="checkbox"/> In Project Limits, No Relocation Necessary |
| <input type="checkbox"/> Utility will need to relocate  | <input type="checkbox"/> Utility is located in Private Easement     |
|   | <input type="checkbox"/> Private Easement Documentation Attached    |
| <input type="checkbox"/> Utility will need to relocate and is interested in <u>proposed</u> ROW (IF applicable) |   |

**Briefly Describe Type and Location of Facilities within Project:**

---

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Estimate Time for Relocation: ☐ < 3 months ☐ 3-6 months ☐ 6-9 months ☐ > 9 months

Weather Sensitive: ☐ Yes ☐ No If yes, please explain: \_\_\_\_\_

Factors prerequisite to or that could affect relocation process (i.e. Regulatory Requirements):

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**Utility Plan Review:**

☐ Correct as Shown ☐ Corrections needed ☐ Attachments provided for Consultant

Corrections necessary on plan sheets:

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Additional Information requested from Consultant: \_\_\_\_\_

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Utility Requests Paper Plans (choose one): ☐ Full Size ☐ Half Size ☐ Cross-Sections (Full Size)

**Please email this form on or before Date to:**

Project Engineer Consultant  
Company  
E-mail

Leslie Hicks  
City of Wichita  
lhicks@wichita.gov

**Attachment No. 4 to Exhibit "A" – CIP Scope of Services**

Individual Project Name (i.e., Amidon, 21st to 29th Street North)											
Current Date	2007 Proj. No./ City Proj. No.	City Design Manager	Consultant	Date of First UICC	Date of Second UICC	Date of Plan Revision Distribution	Date of Second Plan Revision Distribution	U/W Purchased Y/N	Date/Utility notified of U/W completion	Project Approved Bid Date	Proposed Utility Clear Date (project)
2/21/2013	1111111/ 2222222	Kalman	Ken Lee/ Higgins & Brown	2/21/2013	2/21/2013			No			
				Utility needs to relocate (Y/N)	Utility in Private Encumbrance (Y/N)	Utility needs proposed U/W to relocate (Y/N)	Relocation Weather Sensitive (Y/N)	Estimated Date of Utility Design Completion	Time needed for relocation after utility design complete	Individual Utility Clear Date	
<b>Westar (Distribution)</b>											
Location in Project: (Describe Existing Facilities)											
Relocation Needs:											
Comments:											
<b>Westar (Transmission)</b>											
Location in Project: (Describe Existing Facilities)											
Relocation Needs:											
Comments:											

<b>LOS</b>
Location in Project: (Describe Existing Facilities)
Relocation Needs:
Comments:
<b>Black Hills</b>
Location in Project: (Describe Existing Facilities)
Relocation Needs:
Comments:
<b>AT&amp;T</b>
Location in Project: (Describe Existing Facilities)
Relocation Needs:
Comments:

Dist	
Location in Project: (Describe Existing Facilities)	
Relocation Needs:	
Comments:	
Water	
Location in Project: (Describe Existing Facilities)	
Relocation Needs:	
Comments:	
Sewer	
Location in Project: (Describe Existing Facilities)	
Relocation Needs:	
Comments:	

<b>Stormwater</b>
<b>Location in Project:</b> (Describe Existing Facilities)
<b>Relocation Needs:</b>
<b>Comments:</b>
<b>Other</b>
<b>Location in Project:</b> (Describe Existing Facilities)
<b>Relocation Needs:</b>
<b>Comments:</b>

**EXHIBIT "B"**

**REVISED NON-DISCRIMINATION AND  
EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM  
REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS**

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.
- B. Requirements of the State of Kansas:
  - 1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;
  - 2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer"; or a similar phrase to be approved by the "Kansas Human Rights Commission";
  - 3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
  - 4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
  - 5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.
- C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:
  - 1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;
  - 2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;
  - 3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be



deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further, Civil Rights complaints, or investigations may be referred to the State;

4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.
5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

AGREEMENT

for

PROFESSIONAL SERVICES

between

THE CITY OF WICHITA, KANSAS

and

PROFESSIONAL ENGINEERING CONSULTANTS, P.A.

for

TYLER ROAD BETWEEN MAPLE AND CENTRAL

THIS AGREEMENT, made this 29<sup>th</sup> day of February, 2016, by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and PROFESSIONAL ENGINEERING CONSULTANTS, P.A., party of the second part, hereinafter called the "ENGINEER".

WHEREAS, the CITY intends to construct;

**Tyler Road between Maple and Central (Project No. 472-85282).**

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. SCOPE OF SERVICES

The ENGINEER shall furnish professional services as required for designing improvements for Tyler Road between Maple and Central, and to perform the PROJECT tasks outlined in the SCOPE OF SERVICES (**Exhibit "A"**).

II. IN ADDITION, THE ENGINEER AGREES

- B. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in **Exhibit "A"**.
- C. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.
- D. To make available during regular office hours, all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this agreement.
- E. To save and hold CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.

- F. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY.
- G. To comply with all Federal, State and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply with the CITY'S Affirmative Action Program as set forth in Exhibit "B" which is attached hereto and adopted by reference as though fully set forth herein.
- H. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.
- I. To complete the services to be performed by ENGINEER within the time allotted for the PROJECT in accordance with Exhibit "A"; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond control of the ENGINEER.
- J. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ENGINEER under this agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by ENGINEER, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.
- K. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement. Such policy of insurance shall be in an amount not less than \$500,000.00 subject to a deductible of \$10,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

Workman's Compensation – Statutory  
Employer's Liability - \$500,000 each occurrence.

Further, a comprehensive general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER against all claims arising from injuries to persons (other than ENGINEER'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this agreement. The liability limit shall not be less than \$500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time ENGINEER starts any work under this agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.

- L. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s) designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this agreement. The ENGINEER shall also advise the CITY of any changes in the person designated Project Manager. Written notification shall be provided to the CITY for any changes exceeding one week in length of time.

### III. THE CITY AGREES:

- A. To furnish all available data pertaining to the PROJECT now in the CITY'S files at no cost to the ENGINEER. Confidential materials so furnished will be kept confidential by the ENGINEER.
- B. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ENGINEER, except as specified in Exhibit "A".
- C. To pay the ENGINEER for his services in accordance with the requirements of this agreement.

- D. To provide the right-of-entry for ENGINEER'S personnel in performing field surveys and inspections.
- E. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The CITY agrees to advise; the ENGINEER, in writing, of the person(s) designated as Project Manager with the issuance of the notice to proceed on the work required by this agreement. The CITY shall also advise the ENGINEER of any changes in the person(s) designated Project Manager. *Written notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.*
- F. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

IV. PAYMENT PROVISIONS

- A. Payment to the ENGINEER for the performance of the professional services required by this agreement shall be made on the basis of the not to exceed fee amount specified below:

**Project No. 472 85282, Concept Design                      \$ 33,200**

- B. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:
  - 1. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the PROJECT.
  - 2. Additional design services not covered by the scope of this agreement.
  - 3. Construction staking, material testing, inspection and administration related to the PROJECT.
  - 4. A major change in the scope of services for the PROJECT.

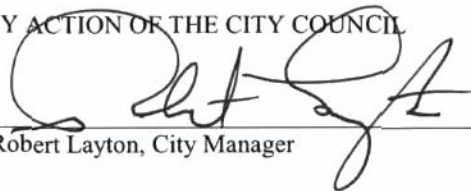
*If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.*

V. THE PARTIES HERETO MUTUALLY AGREE:

- A. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the ENGINEER'S inability to proceed with the work.
- B. That the field notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that CITY shall hold ENGINEER harmless from any and all claims, damages or causes of action which arise out of such further use when such further use is not in connection with the PROJECT.
- C. That the services to be performed by the ENGINEER under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.
- D. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by the CITY, provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefor.
- E. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.
- F. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement shall be construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.
- G. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.
- H. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.


IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this agreement as of the date first written above.

BY ACTION OF THE CITY COUNCIL

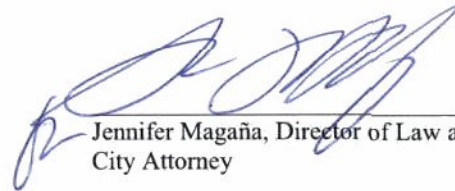
  
Robert Layton, City Manager



ATTEST:

  
Karen Sublett, City Clerk

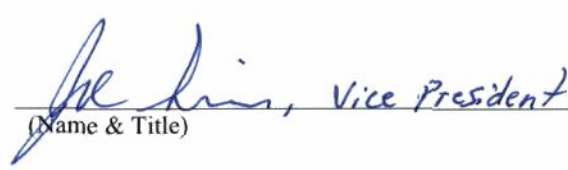
APPROVED AS TO FORM:

  
Jennifer Magaña, Director of Law and  
City Attorney

BY ACTION OF THE CITY COUNCIL

\_\_\_\_\_  
Jeff Longwell, Mayor

PROFESSIONAL ENGINEERING CONSULTANTS, P.A.

  
(Name & Title)

## EXHIBIT "A"

### SCOPE OF SERVICES

#### CAPITAL IMPROVEMENT PROGRAM (CIP) PROJECTS

Upon award of this project the ENGINEER will contact utility companies directly and determine from the existing records the location of all utilities. Coordination with the utility companies involved will include a conceptual plan jointly developed with the utility company indicating the methods employed to resolve utility conflicts. The conceptual plan should include elements of designing around the utility, analysis of construction expense vs. design expense, and utility company expenses to resolve conflicts.

On projects that disturb one acre or more, the ENGINEER will prepare a storm water pollution prevention plan, prepare the necessary permit application(s) and include any provisions or requirements in the project plans and special provisions. The storm water pollution prevention plan shall also include submittal of a Notice of Intent (NOI) prior to bidding; site-specific erosion control plan; and standard Best Management Practice (BMP) detail sheets per Attachment No. 1 to Exhibit "A".

Associated improvements as part of these projects will include, when applicable: permanent traffic signalization system improvements, permanent traffic signing, permanent pavement markings, construction traffic control, construction phasing, incidental drainage, sidewalk, identification of additional right-of-way and furnishing tract drawings and legal descriptions for such right-of-way.

The ENGINEER shall furnish engineering services as required for the best and most cost effective design for the development of the project and provide project alternatives where applicable, including landscaping and beautification provisions on streets where appropriate in available right-of-way; the project plans; supplemental specifications; quantities of work; and estimates of the cost for the PROJECT in the format and detail required by the City Engineer for the City of Wichita; and the Kansas Department of Transportation (KDOT); and the U.S. Army Corps of Engineers, or any other regulatory agency, when applicable. The project alternatives, including proposed landscaping, are to be presented to the City's Design Council, when directed by the Design Engineer, for concurrence in selection prior to progressing to detailed aspects of the work. ENGINEER should use plant material that is drought resistant and requires low maintenance in a xeriscape concept, and is consistent with the City of Wichita Landscape Policy for Arterial Streets. A landscape architect should be included on the ENGINEER's Design Team.

The ENGINEER should identify all trees that may be in conflict or jeopardy of damage by construction activities and then review with Park Department to determine if the trees can be saved and/or moved. In addition, the ENGINEER will notify the City Archaeologist at 316-978-3195 prior to beginning work on this project.

All references below to KDOT only apply to State and Federal Aid projects.

THIS IS NOT A STATE/FEDERAL AID CONTRACT.

In connection with the services to be provided, the ENGINEER shall:

#### A. PHASE I - PRELIMINARY CONCEPT DEVELOPMENT

When authorized by the CITY and where applicable, proceed with development of Study and Alternative Concepts for the PROJECT in the detail deemed necessary to permit the preparation of preliminary and final plans for construction of the improvements based on the preliminary information provided to the ENGINEER.

1. Review Alternative Design Concepts. Review alternative design concepts with the City Engineer or his designated representative prior to progressing to detail aspects of the work. Alternative concepts as ascertained shall be reviewed and discussed with the City Engineer or his designated representative for concurrence in determining the best horizontal and vertical alignments for the PROJECT. CITY'S

concurrence in selection of an alternate or preliminary concept will be contingent on the accuracy and completeness of the background information provided by the ENGINEER used in the evaluation process.

2. Review Preliminary Design Concepts. Review preliminary design concepts with the City Engineer for the City of Wichita prior to progressing to detail aspects of the work. Preliminary design concepts shall be provided on a strip map suitable for presentation at public meetings as required by the City Engineer of the City of Wichita.
3. Drainage Study. When authorized, conduct a detailed study to explore alternative design concepts concerning drainage for the PROJECT. Present the findings in writing identifying recommendations to the CITY, including preliminary cost estimates, prior to development of field check plans. Such written findings and recommendations must be in a format which is self-explanatory and readily understood by persons with average backgrounds for the technology involved.
4. Preliminary Street and Storm Water Sewer Alignments and Profiles. Prepare preliminary street geometrics/alignments with proposed street and storm water sewer grades to conform to the drainage plan for the PROJECT. The drainage plan and computations shall be submitted along with one (1) set of preliminary street and storm water sewer profiles to the CITY for review and approval prior to proceeding with development of field check plans.
5. Preliminary Water Line and Sanitary Sewer Alignments and Profiles. Preliminary water and sanitary sewer alignments and grades are to be reviewed with the CITY by the ENGINEER for approval prior to proceeding to detail aspects of the work. The ENGINEER shall verify and coordinate work to be completed with the Public Works & Utilities Department.
6. Right-of-Way & Temporary Construction Easements. Identify permanent right-of-way and temporary construction easement requirements for the preliminary concepts developed. Such right-of-way and temporary construction easement requirements shall be provided on a strip map suitable for presentation at public meetings as required by the City Engineer.
7. Public Hearings. Assist the City in the conduct of a public hearing(s) on the proposed improvements for the PROJECT as necessary to inform the public, governmental agencies, and affected parties as to construction traffic control, construction sequence and methods, estimated time and duration of project construction, environmental assessment, right-of-way requirements, estimated project costs, etc. Provide adequate visual displays for public presentations and in electronic format for use in Power Point presentation.
8. S. I. & A. for Existing Bridges. For the duration of the project, the ENGINEER shall perform National Bridge Inventory (NBI) inspections as per the KDOT Bridge Inspection Manual in addition to load rating and updating the Structural Inventory and Appraisal (S. I. & A.) form for submittal to KDOT for all existing bridges within the project limits as per regular City inspection schedule.
9. Landscape Plans. When the design has fulfilled the program requirements, submit a PDF set of landscape plans to the CITY'S project manager. After the project manager approves the plans, he/she will submit the same to the Park Department for review and comments. When the Park Department has approved the plans, the ENGINEER may proceed with placing them on the Design Council agenda for review and comment, as directed by the CITY.
10. Design Council. As requested, ENGINEER shall meet with the City's Design Council to review the PROJECT design and interpret engineering drawings. The first presentation should be made at the point when the ENGINEER has arrived at a design which meets all of the functional requirements of the program and has been tentatively approved by the City staff person in charge. Before authorization is given to the ENGINEER to move on to design development, the PROJECT should be presented to the Design Council for review.

#### B. PHASE II - PLAN DEVELOPMENT

When authorized by the CITY, proceed with development of Plans for the PROJECT based on the preliminary design concepts approved by the CITY:

1. Design Council. As requested, ENGINEER shall meet with the City's Design Council to review the PROJECT design and interpret engineering drawings. The PROJECT should be presented when the design of the PROJECT has been perfected to the point where all design factors (shape, size, materials, colors, landscape, exterior relationship, amenities, etc.) have been decided and tentatively approved by staff. It is at this point that the design can be considered "frozen" and will not be changed

except for unforeseen conditions, which may arise.

(It should be noted it is in the ENGINEER'S best interest to reach design freeze and gain aesthetic approval as early in the project as possible. Whereas the Design Council does not presume to tell the ENGINEER or staff when in the planning process design freeze should take place, the amount of time and effort which the ENGINEER has invested in the development of construction documents or other activities will not be taken into consideration by the Design Council at the Design Freeze review.)

2. **Field Check Plans.** When authorized by the CITY, prepare field check plans and a preliminary cost estimate for the PROJECT based on approved preliminary concepts as required by the CITY. ENGINEER to submit one copy of preliminary cost estimate and two (2) sets of field check plans to the CITY and one copy of preliminary cost estimate and one electronic set of field check plans to KDOT, to be uploaded to the KDOT FTP site. ENGINEER to participate in a field check of the PROJECT with the CITY and with KDOT when required. Major items of work included in development of field check plans are:

- (a) **Field Surveys.** Provide engineering and technical personnel and equipment to obtain survey data as required for the engineering design. Utility companies shall be requested to flag or otherwise locate their facilities within the PROJECT limits prior to the ENGINEER conducting the field survey for the PROJECT. Utility information shall be clearly noted and identified on the plans.

- (b) **Utility Coordination.** Identify all potential utility conflicts and provide preliminary field check plans showing the problem locations, posted to the City's FTP site. Plans will clearly identify specific utility company facilities by color and by name (i.e. not just "gas" or "fiber optic"). ENGINEER shall include a conflict list for each utility, also posted to the FTP site. ENGINEER shall meet with utility company representatives to review plans and utility verification forms (**Attachment No. 3 to Exhibit "A"**) at each milestone date and as directed by the CITY and as determined necessary by the ENGINEER. This information will be compiled into a summary report (**Attachment No. 4 to Exhibit "A"**) maintained and updated by ENGINEER as necessary to present a cohesive and reflective status of utilities, and provided to the City as necessary. **ENGINEER shall maintain involvement with utility companies until all conflicts have been resolved (not just identified).** When appropriate, the City Engineer will approve the identification on plans of conflicts to be resolved during construction. ENGINEER shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction.

- (c) **Soils and Foundation Investigations.** The CITY may authorize ENGINEER to direct an approved Testing Laboratory to perform subsurface borings and soils investigations for the PROJECT, which shall be reported in the format and detail required by the City Engineer for the City of Wichita. The Testing Laboratory shall be responsible for the accuracy and competence of their work. The ENGINEER'S contract with the Testing Laboratory shall provide that the Testing Laboratory is responsible to the City for the accuracy and competence of the Testing Laboratory's work. If required the cost of soils and boring investigations shall be prepared as a supplemental agreement between City of Wichita and the ENGINEER. This may be required for bridges, structures, retaining walls and other locations.

- (d) **Property Acquisitions.** Prepare right-of-way/easement tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions. ENGINEER will perform all necessary survey work associated with marking the additional right-of-way or easements. This shall include the permanent monumentation of new corners for any additional right-of-way and a one-time marking of all the right-of-way for utility relocations at a time directed by the CITY. **The ENGINEER shall perform all necessary title work and sufficient research for determination of current right-of-way and easements.**

- (e) **Temporary Construction Easements.** Prepare legal descriptions for Temporary Construction Easements (TCE) for all parcels where the construction limits extend beyond the existing/proposed right-of-way, and submit tract maps to the City that are suitable for mailing to property owners. The tract maps should include all features shown on the plans, including but not limited to structures, trees, fences, signs, monuments, etc, and should indicate if such items will be impacted within the required easement. Incorporate TCE limits on the plans.



- (f) **ENGINEER shall provide a clearly defined list of known encroachments into the existing right-of-way, including but not limited to structures, fences, planters, walls, etc.** The list shall be in tabular form and include the property address and owner information, approximate baseline station of the encroachment, and nature/description of the same.
- (g) **ENGINEER shall provide a list of proposed driveway closures, relocations or other changes.** The list shall be in tabular form and include the property address and owner information, approximate baseline station of the approach, and nature/description of the same.
3. **Office Check Plans.** When authorized by the CITY prepare office check plans for the PROJECT based upon comments as agreed upon in field check review. Major items of work included in development of office check plans are:
- (a) **Plan Submittal.** Submit two (2) sets of office check plans to the CITY, with one copy of supplemental specifications and one copy of cost estimates and quantities of work units of the PROJECT for office check. (Cost estimates to be based on current unit prices for similar work in the Wichita area unless otherwise directed by the CITY.) Field check plans marked with CITY and/or KDOT comments are to be returned to the CITY with office check plan submittals. ENGINEER to participate in an office check of the PROJECT with the CITY and KDOT when required.
- (b) **Utility Coordination.** Identify all potential utility conflicts and provide preliminary office check plans showing the problem locations, posted to the City's FTP site. **Plans will clearly identify specific utility company facilities by color and by name (i.e. not just "gas" or "fiber optic").** ENGINEER shall include a conflict list for each utility, also posted to the FTP site. ENGINEER shall meet with utility company representatives to review plans and utility verification forms (**Attachment No. 3 to Exhibit "A"**) at each milestone date and as directed by the CITY and as determined necessary by the ENGINEER. This information will be compiled into a summary report (**Attachment No. 4 to Exhibit "A" also available on the City's FTP site**) maintained and updated by ENGINEER as necessary to present a cohesive and reflective status of utilities, and provided to the City as necessary. **ENGINEER shall maintain involvement with utility companies until all conflicts have been resolved (not just identified).** When appropriate, the City Engineer will approve the identification on plans of conflicts to be resolved during construction. ENGINEER shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction.
- (c) **Plan Requirements.** Office check plans shall include traffic signalization details, traffic signing details, pavement marking details, incidental drainage, construction phasing details (when applicable), construction traffic control details, and all other necessary construction details required for the PROJECT. The PROJECT'S plans and proposed special provisions shall address the requirements included in the City's Administrative Regulation 6.5, "Cleanup, Restoration or Replacement Following Construction."
- (d) **Permits.** The ENGINEER shall prepare any and all necessary permits for this PROJECT, such as the preparation of applications for U.S. Army Corps of Engineers (404) permits, Division of Water Resources permit, Kansas Department of Wildlife and Parks permit and Kansas Department of Health and Environment permit. Also if requested by the CITY, obtain construction approval from the U.S. Army Corps of Engineers and assist the CITY in coordinating the archaeological review of the PROJECT. **The ENGINEER shall be responsible for the cost of all permit fees that are required to complete the PROJECT. The cost shall be included in the design fee submitted by the ENGINEER.**
4. **Project Milestones.** The ENGINEER agrees to complete and deliver the field notes, preliminary and final plans, specifications and estimates to the CITY within the time allotted for the project as stipulated below; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond the control of the ENGINEER.
- Concept Design for the project due by May 2, 2016.**
- Field Check Plans and an estimate for the project due by July 11, 2016.**
- Office Check Plans and an estimate for the project due by September 2, 2016.**
- Completion of all work required by this agreement (including submittal of final approved plans, field notes, and related project documents by October 3, 2016.**

5. **Final Plans.** When authorized by the CITY prepare final plans for the PROJECT based upon comments as agreed upon as a result of the office check review. Major items of work included in development of final plans are:
- (a) Prepare engineering plans (which shall include construction sequencing and traffic control), supplemental specifications, special provisions and construction cost estimates, or estimates of the quantities of work for the PROJECT.
  - (b) Final Plan Submittals. Final plans, field notes and other pertinent project mapping records are to be submitted per **Attachment No. 1 to Exhibit "A"**.
  - (c) Technical construction specifications shall in general follow the City of Wichita's Standard Specifications and/or KDOT Standard Specifications supplemented as necessary to suit PROJECT requirements. Plan profile sheets shall also be required for water distribution system/water supply line improvements.
  - (d) **ENGINEER shall provide a clearly defined list of known encroachments into the existing right-of-way, including but not limited to structures, fences, planters, walls, etc.** The list shall be in tabular form and include the property address and owner information, approximate baseline station of the encroachment, and nature/description of the same. **The list of encroachments should reflect conditions at the time of final plan submittal.**
  - (e) ENGINEER shall provide a list proposed driveway closures, relocations or other changes. The list shall be in tabular form and include the property address and owner information, approximate baseline station of the approach, and nature/description of the same.
  - (f) Engineer's cost estimate information shall be submitted in tabular form and on a unit cost basis, as approved by the CITY and as required by KDOT. Pay items of work shall conform to the CITY's Master Bid Item List.
  - (g) Final plans when submitted shall be complete and ready for reproducing for distribution to prospective bidders.
  - (h) All applicable coordinate control points and related project staking information shall be furnished on the plans in the form of a bubble map, as well as on a CD-ROM in a text format agreed upon by the CITY. This coordinate information will be used by the CITY for construction staking purposes. See **Attachment No. 2 to Exhibit "A"** for required coordinate information.
  - (i) The date identified as the date of CITY acceptance of final plans and other supplementary work will be that date upon which the City Engineer ascertains that such plans and work are in accordance with all provisions of the contract for design services.
  - (j) ENGINEER shall provide the CITY with electronic files suitable for power point presentations to the Design Council and City Council.
6. **Staking and Inspection** If requested by the CITY, the ENGINEER will enter into a Supplemental Agreement to complete construction staking, material testing, inspection and administration related to the PROJECT.
7. **Post Letting.**
- (a) All shop drawings submitted by the contractor for the PROJECT shall be reviewed and, when acceptable, approved for construction by the ENGINEER for the PROJECT.
  - (b) The ENGINEER shall meet with effected property owners, along with City staff, at a pre-construction Public Information Meeting, as arranged by the City, to explain project design, including such issues as construction phasing and traffic control.
  - (c) **New Right-of-Way Monumentation.** The Engineer shall complete permanent monumentation of all new R/W after project completion, complete and submit all necessary legal documentation for same.
  - (d) **Section Corner Monuments.** The Engineer shall provide services required by KSA Chapter 58, Article 20; Statute 58-2011, any time a section corner or monument will be endangered, disturbed, or removed. The City of Wichita Construction Engineer will receive a copy of all Land Survey Reference Reports submitted to the Secretary of State Historical Society. All costs associated with this effort shall be the responsibility of the Engineer. The City will provide a three business day notice to the Engineer to mark the monument location for re-establishment after

pavement work is completed. The City will then core and install a cast iron monument box and cover. The Engineer will be notified within three business days after the box is installed to reset the final monument.

(e) **S. I. & A. for Bridges.** Upon completion of any and all bridge construction, the ENGINEER shall perform the National Bridge Inventory (NBI) inspection as per KDOT Bridge Inspection Manual, in addition to load rating and updating the Structural Inventory and Appraisal (S. I. & A.) form and completing the Item 113 Justification Form for the new bridges if applicable for submittal to KDOT for all bridges within the project limits regardless of initial structure size.

## **Attachment No. 1 to Exhibit "A" – CIP Scope of Services**

### **Plan Submittal**

*Water* projects plans shall be submitted with (1) set of mylar plans; and a CD of the .dwgs and .pdfs. This includes projects that have the water plans incorporated into that project, for which the cover sheet should also be included.

Storm Sewer, Sanitary Sewer and Paving plans shall be submitted in a .dwg and .pdf format on a CD.

In addition, two (2) sets of 11"x17" plans will be submitted at the time of final .pdf submittal for ALL projects, regardless of the type.

### **Storm Water Pollution Prevention**

For any project disturbing one acre of ground or more, the design Consultant must prepare a Notice of Intent and a Storm Water Pollution Prevention Plan and submit them to the KDHE for approval. Complete copies of the approved NOI and SWP3 must be provided to the City. One hard copy should be provided to the project engineer upon approval, one electronic copy should be included with your transmittal of PDF plan files, and one additional electronic copy should be sent to the attention of Mark Hall at the following address:

City of Wichita  
Storm Water  
455 N. Main 8<sup>th</sup> Floor  
Wichita, KS 67202

THIS INCLUDES ALL PROJECTS DISTURBING ONE ACRE OR MORE – I.E. NEW DEVELOPMENT, ARTERIAL STREETS, DIRT STREETS, BIKE PATHS, SEWER MAINS, ETC.

The City of Wichita will, under no circumstance, bid any project without first receiving copies of the KDHE approved NOI and SWP3.

The design of all City of Wichita construction projects must include the development of a site-specific erosion control plan. The site-specific erosion control plan must be included in the project plans. Every component and requirement of the erosion control plan must be separately and accurately accounted as a measured quantity bid item in the engineer's estimate.

Please note that careful consideration must be given to the transition of BMP maintenance responsibilities throughout the course of multi-phased projects. All intended responsibilities must be clearly demonstrated by the bid items. For example, if it is intended that the contractor of a subsequent waterline project be responsible for the maintenance of silt fence installed with a preceding sanitary sewer project, a measured quantity bid item must be submitted for x-lf of silt fence maintenance.

The City's current BMP standard detail sheets shall be included in all plans. These five sheets must be included in every plan set developed for the City of Wichita, regardless of project size.

## **Attachment No. 2 to Exhibit "A" – CIP Scope of Services**

### **Required Plan Coordinate Information**

#### **Arterial Street Projects & Infill (Existing Neighborhoods)**

##### **I. SANITARY SEWER**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments
- benchmarks, including TBM set with preliminary survey
- center of manholes
- end of manhole stubs (when longer than five feet)

##### **II. WATER LINE**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments; any necessary points for establishing BL, including P.I.'s in BL
- benchmarks, including TBM set with preliminary survey
- beginning and ends of pipe
- all P.I.'s/deflections (horizontal and vertical)
- FH's, tees, bends, air release, valves

##### **III. STORM SEWER**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments; any necessary points for establishing BL, including P.I.'s in BL
- benchmarks, including TBM set with preliminary survey
- center of inside face on Type 1/1A curb inlets; center of high edge on Type 2 curb inlets
- for skewed inlets typically in intersection radii, or not parallel to baseline – center of curb inlet AND center of inside face on Type 1/1A curb inlets; center of high edge on Type 2 curb inlets
- end of end section, at CL of pipe
- center, end of pipe at outside face of headwall; if headwall not perpendicular to pipe, each corner of headwall at outside face
- center of all drop inlets, manholes, and other structures
- center of RCB at each end (outside face of hubguard); if box rotated, each corner, outside face

##### **IV. PAVING**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments; any necessary points for establishing BL, including P.I.'s in BL
- benchmarks, including TBM set with preliminary survey
- center of signal poles, service and junction boxes, controller, etc.; ends and P.I.'s for retaining walls, at back of walls

**THE SAME COORDINATE SYSTEM SHALL BE USED FOR ALL SEPARATE PHASES OF A LARGER INFILL OR ARTERIAL STREET PROJECT.**

**Sub-Division Projects**

**I. SANITARY SEWER**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey
- center of manholes
- back and/or front lot corners for specifically referenced easement grading, outside that included in mass grading projects; include coordinates for vertical P.I. locations not at lot corners
- end of manhole stubs (when longer than five feet)

**II. WATER DISTRIBUTION SYSTEM**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey
- beginning and ends of pipe
- all P.I.'s/deflections (horizontal and vertical)
- FH's, tees, bends, air release, valves

**III. WATER SUPPLY LINE**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments; any necessary points for establishing BL, including P.I.'s in BL
- benchmarks, including TBM set with preliminary survey
- beginning and ends of pipe
- all P.I.'s/deflections (horizontal and vertical)
- FH's, tees, bends, air release, valves

**IV. STORM SEWER**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey
- center of inside face on Type 1/1A curb inlets; center of high edge on Type 2 curb inlets
- for skewed inlets typically in intersection radii, or not parallel to baseline – center of curb inlet AND center of inside face on Type 1/1A curb inlets; center of high edge on Type 2 curb inlets
- end of end section, at CL of pipe
- center, end of pipe at outside face of headwall; if headwall not perpendicular to pipe, each corner of headwall at outside face
- center of all drop inlets, manholes, and other structures
- center of RCBC at each end (outside face of hubguard); if box rotated, each corner, outside face

**V. MASS GRADING**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey
- all lot corners
- any grade breaks between front & rear lot corners
- high points/low points within drainage easements
- street area
  - centerline @ 100' Sta on tangent sections
  - pc/pt points & 50' along curves
- special drainage swales
  - pc/pt points, pi's & 50' Sta in between
- ponds
  - any grades breaks between pond bottom and rear property line
  - pc/mid radius/pt around pond curves
- for irregular shaped lots (mainly commercial or industrial developments) provide TIN file

## **VI. PAVING**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey

**In addition to the required coordinate information, the following shall be included in all plans, at a minimum, as needed for construction staking on all City projects:**

- Include copy of plat(s) on all plans, as relevant and approved by the Design Engineer
- Benchmarks – minimum of two City standards, four total desirable; as close to project as possible, even if TBM set with preliminary survey
- Benchmark elevations must be in the same datum as the design (i.e. NAV 88 design needs NAV 88 benchmarks, not NAV 29)
- All control irons/identified property irons shall be shown on plans, with BL stationing and offset
- Show deflection angles in BL, and/or bearing/azimuth of BL sections
- Arterial project side streets – provide BL station at CL of intersection of the two streets, on the BL; BL station and offset to CL of side street at removal limits; include deflection angle from BL to CL of side street
- Existing FL/pavement grades shown at all match points
- Top of curb grades and stationing at all ends-of-return and horizontal/vertical P.I.'s; not just even stationing
- CL top of pavement grades for arterial
- CL elevation for streets on mass grading work @ 100' Sta in tangent sections and 50' on curves.
- **ELEVATION SHALL BE TO TOP OF ROCK BASE.**
- BL station and offset at all R/W changes; include R/W corners at all intersections, even if no change in R/W
- Clearly show existing grades at R/W and beyond; identify removal limits beyond R/W (for grade purposes) with BL station and offset, or dimension from R/W
- Show offset distance between BL and proposed street CL when not the same; establish clear relationship between the two
- BL station and offset to center of signal poles, service and junction boxes, controllers, etc.
- BL station and offset to back of retaining walls, at ends of walls and all P.I.'s
- Concrete pavement – provide detailed joint pattern, dimensions, and elevations for all valley gutters, intersections, and mainline pavement; should be separate plan sheet(s) with clear and project-specific details
- Storm Sewer – BL station and offset for all curb inlets, drop inlets, manholes, and other structures (to the coordinate point locations detailed in previous sheets); same for SS and WL – pertinent facilities should be referenced to BL station and offset
- Sanitary Sewer – show deflection angles between MH's
- Flow line elevations for manhole stubs

- Curve Tables – should include bends, tees, valves, FH's etc. for waterlines; ends-of-return; P.I.'s, etc. for paving
- Should be able to accurately scale off of plans



**Attachment No. 3 to Exhibit "A" – CIP Scope of Services**

**Project Name**

**Utility Location Verification for ULCC Sub-Committee (Date)**

Field Check: ☐ Office Check: ☐

UTILITY: \_\_\_\_\_ Checked by \_\_\_\_\_ on \_\_\_\_\_

**Utility Location:**

- |   |   |
|---|---|
| <input type="checkbox"/> None in Project Limits   | <input type="checkbox"/> In Project Limits, No Relocation Necessary |
| <input type="checkbox"/> Utility will need to relocate  | <input type="checkbox"/> Utility is located in Private Easement     |
|   | <input type="checkbox"/> Private Easement Documentation Attached    |
| <input type="checkbox"/> Utility will need to relocate and is interested in <b>proposed</b> ROW (IF applicable) |   |

**Briefly Describe Type and Location of Facilities within Project:**

---

---

Estimate Time for Relocation: ☐ < 3 months ☐ 3-6 months ☐ 6-9 months ☐ > 9 months

Weather Sensitive: ☐ Yes ☐ No If yes, please explain: \_\_\_\_\_

Factors prerequisite to or that could affect relocation process (i.e. Regulatory Requirements):

---

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**Utility Plan Review:**

☐ Correct as Shown ☐ Corrections needed ☐ Attachments provided for Consultant

Corrections necessary on plan sheets:

---

---

Additional Information requested from Consultant: \_\_\_\_\_

---

Utility Requests Paper Plans (choose one): ☐ Full Size ☐ Half Size ☐ Cross-Sections (Full Size)

**Please email this form on or before Date to:**

Project Engineer Consultant  
Company  
E-mail

Leslie Hicks  
City of Wichita  
lhicks@wichita.gov

**Attachment No. 4 to Exhibit "A" – CIP Scope of Services**

Individual Project Name (i.e., Amidon, 21st to 29th Street North)											
Current Date	2007 Proj. No. (City Proj. No.)	City Design Manager	Consultant	Date of First LRDC	Date of Second LRDC	Date of First Revision	Date of Second Revision	R/W Purchased Y/N	Date Utilities notified of R/W completion	Project Proposed Start Date	Proposed Utility Clear Date (Project)
2/21/2013	1433333/ 222222	Kellerman	Ken Lee/ Higgins & Nelson	2/20/2013	2/20/2013			No			
Utility Contact				Utility needs to relocate (Y/N)	Utility in Private Possession (Y/N)	Utility needs R/W (Y/N)	Relocation Weather Sensitive (Y/N)	Estimated Date of Utility Design Completion	Time needed for relocation after utility design complete	Individual Utility Clear Date	
<b>Wester (Distribution)</b>											
Location in Project: (Describe Existing Facilities)											
Relocation Needs:											
Comments:											
<b>Wester (Transmission)</b>											
Location in Project: (Describe Existing Facilities)											
Relocation Needs:											
Comments:											

UES
Location in Project: (Describe Existing Facilities)
Relocation Needs:
Comments:
Black Holes
Location in Project: (Describe Existing Facilities)
Relocation Needs:
Comments:
AT&T
Location in Project: (Describe Existing Facilities)
Relocation Needs:
Comments:

<p><b>Comments:</b></p>
<p><b>Relocation Needs:</b></p>
<p><b>Location in Project:</b> (Describe Existing Facilities)</p>
<p><b>Water:</b></p>
<p><b>Location in Project:</b> (Describe Existing Facilities)</p>
<p><b>Relocation Needs:</b></p>
<p><b>Comments:</b></p>
<p><b>Sewer:</b></p>
<p><b>Location in Project:</b> (Describe Existing Facilities)</p>
<p><b>Relocation Needs:</b></p>
<p><b>Comments:</b></p>

<p><b>Site description:</b></p>
<p><b>Location in Project:</b> (Describe Existing Facilities)</p>
<p><b>Relocation Needs:</b></p>
<p><b>Comments:</b></p>
<p><b>Other:</b></p>
<p><b>Location in Project:</b> (Describe Existing Facilities)</p>
<p><b>Relocation Needs:</b></p>
<p><b>Comments:</b></p>

## **EXHIBIT "B"**

### **REVISED NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS**

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.
- B. Requirements of the State of Kansas:
  - 1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;
  - 2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";
  - 3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
  - 4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
  - 5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.
- C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:
  - 1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, up-grading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;
  - 2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;
  - 3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports

to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;

4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.
5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

AGREEMENT

for

PROFESSIONAL SERVICES

between

THE CITY OF WICHITA, KANSAS

and

PROFESSIONAL ENGINEERING CONSULTANTS, P.A.

for

WATER LINE ON 47<sup>TH</sup>, AND 47<sup>TH</sup>/MACARTHUR

THIS AGREEMENT, made this 1<sup>st</sup> day of March, 2016, by and between the CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and PROFESSIONAL ENGINEERING CONSULTANTS, P.A., party of the second part, hereinafter called the "ENGINEER".

WHEREAS, the CITY intends to construct;

**WATER LINE IN 47<sup>TH</sup> STREET SOUTH, AND A NEW WATER LINE CROSSING THE BIG DITCH AT 47<sup>TH</sup> STREET SOUTH OR MACARTHUR (Project No. 448-90718).**

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. SCOPE OF SERVICES

The ENGINEER shall furnish professional services as required for designing water improvements in 47<sup>th</sup> Street South, and a new water line crossing the Big Ditch at 47<sup>th</sup> Street South OR MacArthur, and to perform the PROJECT tasks outlined in the SCOPE OF SERVICES (Exhibit "A").

II. IN ADDITION, THE ENGINEER AGREES

- A. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in Exhibit "A".
- B. To attend meetings with the City and other local, state and federal agencies as necessitated by the SCOPE OF SERVICES.
- C. To make available during regular office hours, all calculations, sketches and drawings such as the CITY may wish to examine periodically during performance of this agreement.
- D. To save and hold CITY harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of ENGINEER, its agents, servants, employees, or subcontractors occurring in the performance of its services under this contract.



- E. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by ENGINEER and, where relevant to method of payment, to make such material available to the CITY.
- F. To comply with all Federal, State and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1964, and to comply with the CITY'S Affirmative Action Program as set forth in **Exhibit "B"** which is attached hereto and adopted by reference as though fully set forth herein.
- G. To accept compensation for the work herein described in such amounts and at such periods as provided in Article IV and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.
- H. To complete the services to be performed by ENGINEER within the time allotted for the PROJECT in accordance with **Exhibit "A"**; EXCEPT that the ENGINEER shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond control of the ENGINEER.
- I. Covenants and represents to be responsible for the professional and technical accuracies and the coordination of all designs, drawings, specifications, plans and/or other work or material furnished by the ENGINEER under this agreement. ENGINEER further agrees, covenants and represents, that all designs, drawings, specifications, plans, and other work or material furnished by ENGINEER, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from negligent errors or omissions.
- J. ENGINEER shall procure and maintain such insurance as will protect the ENGINEER from damages resulting from the negligent acts of the ENGINEER, its agents, officers, employees and subcontractors in the performance of the professional services rendered under this agreement. Such policy of insurance shall be in an amount not less than \$500,000.00 subject to a deductible of \$10,000.00. In addition, a Workman's Compensation and Employer's Liability Policy shall be procured and maintained. This policy shall include an "all state" endorsement. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall be not less than:

Workman's Compensation - Statutory  
Employer's Liability - \$500,000 each occurrence.

Further, a comprehensive general liability policy shall be procured and maintained by the ENGINEER that shall be written in a comprehensive form and shall protect ENGINEER against all claims arising from injuries to persons (other than ENGINEER'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of ENGINEER, its agents, officers, employees or subcontractors in the performance of the professional services under this agreement. The liability limit shall not be less than \$500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time ENGINEER starts any work under this agreement. In addition, insurance policies applicable hereto shall contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.

- K. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The ENGINEER agrees to advise the CITY, in writing, of the person(s) designated as Project Manager not later than five (5) days following issuance of the notice to proceed on the work required by this agreement. The ENGINEER shall also advise the CITY of any changes in the person designated Project Manager. Written notification shall be provided to the CITY for any changes exceeding one week in length of time.

### III. THE CITY AGREES:

- A. To furnish all available data pertaining to the PROJECT now in the CITY'S files at no cost to the ENGINEER. Confidential materials so furnished will be kept confidential by the ENGINEER.
- B. To provide standards as required for the PROJECT; however, reproduction costs are the responsibility of the ENGINEER, except as specified in **Exhibit "A"**.
- C. To pay the ENGINEER for his services in accordance with the requirements of this agreement.

- D. To provide the right-of-entry for ENGINEER'S personnel in performing field surveys and inspections.
- E. To designate a Project Manager for the coordination of the work that this agreement requires to be performed. The CITY agrees to advise, the ENGINEER, in writing, of the person(s) designated as Project Manager with the issuance of the notice to proceed on the work required by this agreement. The CITY shall also advise the ENGINEER of any changes in the person(s) designated Project Manager. Written notification shall be provided to the ENGINEER for any changes exceeding one week in length of time.
- F. To examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER in a timely fashion.

#### IV. PAYMENT PROVISIONS

- A. Payment to the ENGINEER for the performance of the professional services required by this agreement shall be made on the basis of the not to exceed fee amount specified below:

**Project No. 448 90718, Concept Design                      \$ 8,500**

- B. When requested by the CITY, the ENGINEER will enter into a Supplemental Agreement for additional services related to the PROJECT such as, but not limited to:
  - 1. Consultant or witness for the CITY in any litigation, administrative hearing, or other legal proceedings related to the PROJECT.
  - 2. Additional design services not covered by the scope of this agreement.
  - 3. Construction staking, material testing, inspection and administration related to the PROJECT.
  - 4. A major change in the scope of services for the PROJECT.
 If additional work should be necessary, the ENGINEER will be given written notice by the CITY along with a request for an estimate of the increase necessary in the not-to-exceed fee for performance of such additions. No additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.

#### V. THE PARTIES HERETO MUTUALLY AGREE:

- A. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the ENGINEER'S inability to proceed with the work.
- B. That the field notes and other pertinent drawings and documents pertaining to the PROJECT shall become the property of the CITY upon completion or termination of the ENGINEER'S services in accordance with this agreement; and there shall be no restriction or limitation on their further use by the CITY. Provided, however, that CITY shall hold ENGINEER harmless from any and all claims, damages or causes of action which arise out of such further use when such further use is not in connection with the PROJECT.
- C. That the services to be performed by the ENGINEER under the terms of this agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.
- D. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by the CITY, provided, however, that the ENGINEER shall request extensions, in writing, giving the reasons therefor.
- E. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.
- F. Neither the CITY'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the ENGINEER under this agreement shall be construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.
- G. The rights and remedies of the CITY provided for under this agreement are in addition to any other rights and remedies provided by law.
- H. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.

IN WITNESS WHEREOF, the CITY and the ENGINEER have executed this agreement as of the date first written above.

BY ACTION OF THE CITY COUNCIL



ATTEST:

*Karen Sublett*  
Karen Sublett, City Clerk

*Jeff Longwell*  
Jeff Longwell, Mayor

APPROVED AS TO FORM:

*Jennifer Magaña*  
Jennifer Magaña, City Attorney and Director of Law

BY ACTION OF THE CITY COUNCIL

\_\_\_\_\_  
Jeff Longwell, Mayor

PROFESSIONAL ENGINEERING CONSULTANTS, P.A.

*Mark Staley*  
(Name & Title)  
Principal

## EXHIBIT "A"

### SCOPE OF SERVICES

#### CAPITAL IMPROVEMENT PROGRAM (CIP) PROJECTS

Upon award of this project the ENGINEER will contact utility companies directly and determine from the existing records the location of all utilities. Coordination with the utility companies involved will include a conceptual plan jointly developed with the utility company indicating the methods employed to resolve utility conflicts. The conceptual plan should include elements of designing around the utility, analysis of construction expense vs. design expense, and utility company expenses to resolve conflicts.

On projects that disturb one acre or more, the ENGINEER will prepare a storm water pollution prevention plan, prepare the necessary permit application(s) and include any provisions or requirements in the project plans and special provisions. The storm water pollution prevention plan shall also include submittal of a Notice of Intent (NOI) prior to bidding; site-specific erosion control plan; and standard Best Management Practice (BMP) detail sheets per Attachment No. 1 to Exhibit "A".

Associated improvements as part of these projects will include, when applicable: permanent traffic signalization system improvements, permanent traffic signing, permanent pavement markings, construction traffic control, construction phasing, incidental drainage, sidewalk, identification of additional right-of-way and furnishing tract drawings and legal descriptions for such right-of-way.

The ENGINEER shall furnish engineering services as required for the best and most cost effective design for the development of the project and provide project alternatives where applicable, including landscaping and beautification provisions on streets where appropriate in available right-of-way; the project plans; supplemental specifications; quantities of work; and estimates of the cost for the PROJECT in the format and detail required by the City Engineer for the City of Wichita; and the Kansas Department of Transportation (KDOT); and the U.S. Army Corps of Engineers, or any other regulatory agency, when applicable. The project alternatives, including proposed landscaping, are to be presented to the City's Design Council, when directed by the Design Engineer, for concurrence in selection prior to progressing to detailed aspects of the work. ENGINEER should use plant material that is drought resistant and requires low maintenance in a xeriscape concept, and is consistent with the City of Wichita Landscape Policy for Arterial Streets. A landscape architect should be included on the ENGINEER's Design Team.

The ENGINEER should identify all trees that may be in conflict or jeopardy of damage by construction activities and then review with Park Department to determine if the trees can be saved and/or moved. In addition, the ENGINEER will notify the City Archaeologist at 316-978-3195 prior to beginning work on this project.

All references below to KDOT only apply to State and Federal Aid projects.

THIS IS NOT A STATE/FEDERAL AID CONTRACT.

In connection with the services to be provided, the ENGINEER shall:

#### A. PHASE I - PRELIMINARY CONCEPT DEVELOPMENT

When authorized by the CITY and where applicable, proceed with development of Study and Alternative Concepts for the PROJECT in the detail deemed necessary to permit the preparation of preliminary and final plans for construction of the improvements based on the preliminary information provided to the ENGINEER.

1. Review Alternative Design Concepts. Review alternative design concepts with the City Engineer or his designated representative prior to progressing to detail aspects of the work. Alternative concepts as ascertained shall be reviewed and discussed with the City Engineer or his designated representative for concurrence in determining the best horizontal and vertical alignments for the PROJECT. CITY'S concurrence in selection of an alternate or preliminary concept will be contingent on the accuracy and

completeness of the background information provided by the ENGINEER used in the evaluation process.

2. Review Preliminary Design Concepts. Review preliminary design concepts with the City Engineer for the City of Wichita prior to progressing to detail aspects of the work. Preliminary design concepts shall be provided on a strip map suitable for presentation at public meetings as required by the City Engineer of the City of Wichita.
3. Drainage Study. When authorized, conduct a detailed study to explore alternative design concepts concerning drainage for the PROJECT. Present the findings in writing identifying recommendations to the CITY, including preliminary cost estimates, prior to development of field check plans. Such written findings and recommendations must be in a format which is self-explanatory and readily understood by persons with average backgrounds for the technology involved.
4. Preliminary Street and Storm Water Sewer Alignments and Profiles. Prepare preliminary street geometrics/alignments with proposed street and storm water sewer grades to conform to the drainage plan for the PROJECT. The drainage plan and computations shall be submitted along with one (1) set of preliminary street and storm water sewer profiles to the CITY for review and approval prior to proceeding with development of field check plans.
5. Preliminary Water Line and Sanitary Sewer Alignments and Profiles. Preliminary water and sanitary sewer alignments and grades are to be reviewed with the CITY by the ENGINEER for approval prior to proceeding to detail aspects of the work. The ENGINEER shall verify and coordinate work to be completed with the Public Works & Utilities Department.
6. Right-of-Way & Temporary Construction Easements. Identify permanent right-of-way and temporary construction easement requirements for the preliminary concepts developed. Such right-of-way and temporary construction easement requirements shall be provided on a strip map suitable for presentation at public meetings as required by the City Engineer.
7. Public Hearings. Assist the City in the conduct of a public hearing(s) on the proposed improvements for the PROJECT as necessary to inform the public, governmental agencies, and affected parties as to construction traffic control, construction sequence and methods, estimated time and duration of project construction, environmental assessment, right-of-way requirements, estimated project costs, etc. Provide adequate visual displays for public presentations and in electronic format for use in Power Point presentation.
8. S. I. & A. for Existing Bridges. For the duration of the project, the ENGINEER shall perform National Bridge Inventory (NBI) inspections as per the KDOT Bridge Inspection Manual in addition to load rating and updating the Structural Inventory and Appraisal (S. I. & A.) form for submittal to KDOT for all existing bridges within the project limits as per regular City inspection schedule.
9. Landscape Plans. When the design has fulfilled the program requirements, submit a PDF set of landscape plans to the CITY'S project manager. After the project manager approves the plans, he/she will submit the same to the Park Department for review and comments. When the Park Department has approved the plans, the ENGINEER may proceed with placing them on the Design Council agenda for review and comment, as directed by the CITY.
10. Design Council. As requested, ENGINEER shall meet with the City's Design Council to review the PROJECT design and interpret engineering drawings. The first presentation should be made at the point when the ENGINEER has arrived at a design which meets all of the functional requirements of the program and has been tentatively approved by the City staff person in charge. Before authorization is given to the ENGINEER to move on to design development, the PROJECT should be presented to the Design Council for review.

**B. PHASE II - PLAN DEVELOPMENT**

When authorized by the CITY, proceed with development of Plans for the PROJECT based on the preliminary design concepts approved by the CITY.

1. Design Council. As requested, ENGINEER shall meet with the City's Design Council to review the PROJECT design and interpret engineering drawings. The PROJECT should be presented when the design of the PROJECT has been perfected to the point where all design factors (shape, size, materials, colors, landscape, exterior relationship, amenities, etc.) have been decided and tentatively approved by staff. It is at this point that the design can be considered "frozen" and will not be changed except for unforeseen conditions, which may arise.

(It should be noted it is in the ENGINEER'S best interest to reach design freeze and gain aesthetic approval as early in the project as possible. Whereas the Design Council does not presume to tell the ENGINEER or staff when in the planning process design freeze should take place, the amount of time and effort which the ENGINEER has invested in the development of construction documents or other activities will not be taken into consideration by the Design Council at the Design Freeze review.)

2. Field Check Plans. When authorized by the CITY, prepare field check plans and a preliminary cost estimate for the PROJECT based on approved preliminary concepts as required by the CITY. ENGINEER to submit one copy of preliminary cost estimate and two (2) sets of field check plans to the CITY and one copy of preliminary cost estimate and one electronic set of field check plans to KDOT, to be uploaded to the KDOT FTP site. ENGINEER to participate in a field check of the PROJECT with the CITY and with KDOT when required. Major items of work included in development of field check plans are:

- (a) Field Surveys. Provide engineering and technical personnel and equipment to obtain survey data as required for the engineering design. Utility companies shall be requested to flag or otherwise locate their facilities within the PROJECT limits prior to the ENGINEER conducting the field survey for the PROJECT. Utility information shall be clearly noted and identified on the plans.

- (b) Utility Coordination. Identify all potential utility conflicts and provide preliminary field check plans showing the problem locations, posted to the City's FTP site. **Plans will clearly identify specific utility company facilities by color and by name (i.e. not just "gas" or "fiber optic").** ENGINEER shall include a conflict list for each utility, also posted to the FTP site. ENGINEER shall meet with utility company representatives to review plans and utility verification forms (**Attachment No. 3 to Exhibit "A"**) at each milestone date and as directed by the CITY and as determined necessary by the ENGINEER. This information will be compiled into a summary report (**Attachment No. 4 to Exhibit "A"**) maintained and updated by ENGINEER as necessary to present a cohesive and reflective status of utilities, and provided to the City as necessary. **ENGINEER shall maintain involvement with utility companies until all conflicts have been resolved (not just identified).** When appropriate, the City Engineer will approve the identification on plans of conflicts to be resolved during construction. ENGINEER shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction.

- (c) Soils and Foundation Investigations. The CITY may authorize ENGINEER to direct an approved Testing Laboratory to perform subsurface borings and soils investigations for the PROJECT, which shall be reported in the format and detail required by the City Engineer for the City of Wichita. The Testing Laboratory shall be responsible for the accuracy and competence of their work. The ENGINEER'S contract with the Testing Laboratory shall provide that the Testing Laboratory is responsible to the City for the accuracy and competence of the Testing Laboratory's work. If required the cost of soils and boring investigations shall be prepared as a supplemental agreement between City of Wichita and the ENGINEER. This may be required for bridges, structures, retaining walls and other locations.

- (d) Property Acquisitions. Prepare right-of-way/easement tract maps and descriptions as required in clearly drawn detail and with sufficient reference to certificate of title descriptions. ENGINEER will perform all necessary survey work associated with marking the additional right-of-way or easements. This shall include the permanent monumentation of new corners for any additional right-of-way and a one-time marking of all the right-of-way for utility relocations at a time directed by the CITY. **The ENGINEER shall perform all necessary title work and sufficient research for determination of current right-of-way and easements.**

- (e) Temporary Construction Easements. Prepare legal descriptions for Temporary Construction Easements (TCE) for all parcels where the construction limits extend beyond the existing/proposed right-of-way, and submit tract maps to the City that are suitable for mailing to property owners. The tract maps should include all features shown on the plans, including but not limited to structures, trees, fences, signs, monuments, etc, and should indicate if such items will be impacted within the required easement. Incorporate TCE limits on the plans.

- (f) **ENGINEER shall provide a clearly defined list of known encroachments into the existing right-of-way, including but not limited to structures, fences, planters, walls, etc.**

The list shall be in tabular form and include the property address and owner information, approximate baseline station of the encroachment, and nature/description of the same.

(g) **ENGINEER** shall provide a list of proposed driveway closures, relocations or other changes. The list shall be in tabular form and include the property address and owner information, approximate baseline station of the approach, and nature/description of the same.

3. **Office Check Plans.** When authorized by the CITY prepare office check plans for the PROJECT based upon comments as agreed upon in field check review. Major items of work included in development of office check plans are:

(a) **Plan Submittal.** Submit two (2) sets of office check plans to the CITY, with one copy of supplemental specifications and one copy of cost estimates and quantities of work units of the PROJECT for office check. (Cost estimates to be based on current unit prices for similar work in the Wichita area unless otherwise directed by the CITY.) Field check plans marked with CITY and/or KDOT comments are to be returned to the CITY with office check plan submittals. **ENGINEER** to participate in an office check of the PROJECT with the CITY and KDOT when required.

(b) **Utility Coordination.** Identify all potential utility conflicts and provide preliminary office check plans showing the problem locations, posted to the City's FTP site. **Plans will clearly identify specific utility company facilities by color and by name (i.e. not just "gas" or "fiber optic").** **ENGINEER** shall include a conflict list for each utility, also posted to the FTP site. **ENGINEER** shall meet with utility company representatives to review plans and utility verification forms (**Attachment No. 3 to Exhibit "A"**) at each milestone date and as directed by the CITY and as determined necessary by the **ENGINEER**. This information will be compiled into a summary report (**Attachment No. 4 to Exhibit "A" also available on the City's FTP site**) maintained and updated by **ENGINEER** as necessary to present a cohesive and reflective status of utilities, and provided to the City as necessary. **ENGINEER shall maintain involvement with utility companies until all conflicts have been resolved (not just identified).** When appropriate, the City Engineer will approve the identification on plans of conflicts to be resolved during construction. **ENGINEER** shall meet with involved utility company/ies and project contractor to resolve any conflicts with utilities that occur during construction.

(c) **Plan Requirements.** Office check plans shall include traffic signalization details, traffic signing details, pavement marking details, incidental drainage, construction phasing details (when applicable), construction traffic control details, and all other necessary construction details required for the PROJECT. The PROJECT'S plans and proposed special provisions shall address the requirements included in the City's Administrative Regulation 6.5, "Cleanup, Restoration or Replacement Following Construction."

(d) **Permits.** The **ENGINEER** shall prepare any and all necessary permits for this PROJECT, such as the preparation of applications for U.S. Army Corps of Engineers (404) permits, Division of Water Resources permit, Kansas Department of Wildlife and Parks permit and Kansas Department of Health and Environment permit. Also if requested by the CITY, obtain construction approval from the U.S. Army Corps of Engineers and assist the CITY in coordinating the archaeological review of the PROJECT. **The ENGINEER shall be responsible for the cost of all permit fees that are required to complete the PROJECT. The cost shall be included in the design fee submitted by the ENGINEER.**

4. **Project Milestones.** The **ENGINEER** agrees to complete and deliver the field notes, preliminary and final plans, specifications and estimates to the CITY within the time allotted for the project as stipulated below; EXCEPT that the **ENGINEER** shall not be responsible or held liable for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond the control of the **ENGINEER**.

**Field Check Plans and an estimate for the project due by May 2, 2016.**

**Office Check Plans and an estimate for the project due by August 8, 2016.**

**Completion of all work required by this agreement (including submittal of final approved plans, field notes, and related project documents by November 7, 2016.**

5. **Final Plans.** When authorized by the CITY prepare final plans for the PROJECT based upon comments as agreed upon as a result of the office check review. Major items of work included in development of final plans are:
  - (a) Prepare engineering plans (which shall include construction sequencing and traffic control), supplemental specifications, special provisions and construction cost estimates, or estimates of the quantities of work for the PROJECT.
  - (b) Final Plan Submittals. Final plans, field notes and other pertinent project mapping records are to be submitted per **Attachment No. 1 to Exhibit "A"**.
  - (c) Technical construction specifications shall in general follow the City of Wichita's Standard Specifications and/or KDOT Standard Specifications supplemented as necessary to suit PROJECT requirements. Plan profile sheets shall also be required for water distribution system/water supply line improvements.
  - (d) **ENGINEER shall provide a clearly defined list of known encroachments into the existing right-of-way, including but not limited to structures, fences, planters, walls, etc.** The list shall be in tabular form and include the property address and owner information, approximate baseline station of the encroachment, and nature/description of the same. **The list of encroachments should reflect conditions at the time of final plan submittal.**
  - (e) ENGINEER shall provide a list proposed driveway closures, relocations or other changes. The list shall be in tabular form and include the property address and owner information, approximate baseline station of the approach, and nature/description of the same.
  - (f) Engineer's cost estimate information shall be submitted in tabular form and on a unit cost basis, as approved by the CITY and as required by KDOT. Pay items of work shall conform to the CITY's Master Bid Item List.
  - (g) Final plans when submitted shall be complete and ready for reproducing for distribution to prospective bidders.
  - (h) All applicable coordinate control points and related project staking information shall be furnished on the plans in the form of a bubble map, as well as on a CD-ROM in a text format agreed upon by the CITY. This coordinate information will be used by the CITY for construction staking purposes. See **Attachment No. 2 to Exhibit "A"** for required coordinate information.
  - (i) The date identified as the date of CITY acceptance of final plans and other supplementary work will be that date upon which the City Engineer ascertains that such plans and work are in accordance with all provisions of the contract for design services.
  - (j) ENGINEER shall provide the CITY with electronic files suitable for power point presentations to the Design Council and City Council.
6. **Staking and Inspection** If requested by the CITY, the ENGINEER will enter into a Supplemental Agreement to complete construction staking, material testing, inspection and administration related to the PROJECT.
7. **Post Letting.**
  - (a) All shop drawings submitted by the contractor for the PROJECT shall be reviewed and, when acceptable, approved for construction by the ENGINEER for the PROJECT.
  - (b) The ENGINEER shall meet with effected property owners, along with City staff, at a pre-construction Public Information Meeting, as arranged by the City, to explain project design, including such issues as construction phasing and traffic control.
  - (c) **New Right-of-Way Monumentation.** The Engineer shall complete permanent monumentation of all new R/W after project completion, complete and submit all necessary legal documentation for same.
  - (d) **Section Corner Monuments.** The Engineer shall provide services required by KSA Chapter 58, Article 20, Statute 58-2011, any time a section corner or monument will be endangered, disturbed, or removed. The City of Wichita Construction Engineer will receive a copy of all Land Survey Reference Reports submitted to the Secretary of State Historical Society. All costs associated with this effort shall be the responsibility of the Engineer. The City will provide a three business day notice to the Engineer to mark the monument location for re-establishment after pavement work is completed. The City will then core and install a cast iron monument box and cover. The Engineer will be notified within three business days after the box is installed to reset



the final monument.

(e) **S. I. & A. for Bridges.** Upon completion of any and all bridge construction, the ENGINEER shall perform the National Bridge Inventory (NBI) inspection as per KDOT Bridge Inspection Manual, in addition to load rating and updating the Structural Inventory and Appraisal (S. I. & A.) form and completing the Item 113 Justification Form for the new bridges if applicable for submittal to KDOT for all bridges within the project limits regardless of initial structure size.

## **Attachment No. 1 to Exhibit "A" – CIP Scope of Services**

### **Plan Submittal**

*Water* projects plans shall be submitted with (1) set of mylar plans; and a CD of the .dwgs and .pdfs. This includes projects that have the water plans incorporated into that project, for which the cover sheet should also be included.

Storm Sewer, Sanitary Sewer and Paving plans shall be submitted in a .dwg and .pdf format on a CD.

In addition, two (2) sets of 11"x17" plans will be submitted at the time of final .pdf submittal for ALL projects, regardless of the type.

### **Storm Water Pollution Prevention**

For any project disturbing one acre of ground or more, the design Consultant must prepare a Notice of Intent and a Storm Water Pollution Prevention Plan and submit them to the KDHE for approval. Complete copies of the approved NOI and SWP3 must be provided to the City. One hard copy should be provided to the project engineer upon approval, one electronic copy should be included with your transmittal of PDF plan files, and one additional electronic copy should be sent to the attention of Mark Hall at the following address:

City of Wichita  
Storm Water  
455 N. Main 8<sup>th</sup> Floor  
Wichita, KS 67202

**THIS INCLUDES ALL PROJECTS DISTURBING ONE ACRE OR MORE – I.E. NEW DEVELOPMENT, ARTERIAL STREETS, DIRT STREETS, BIKE PATHS, SEWER MAINS, ETC.**

The City of Wichita will, under no circumstance, bid any project without first receiving copies of the KDHE approved NOI and SWP3.

The design of all City of Wichita construction projects must include the development of a site-specific erosion control plan. The site-specific erosion control plan must be included in the project plans. Every component and requirement of the erosion control plan must be separately and accurately accounted as a measured quantity bid item in the engineer's estimate.

Please note that careful consideration must be given to the transition of BMP maintenance responsibilities throughout the course of multi-phased projects. All intended responsibilities must be clearly demonstrated by the bid items. For example, if it is intended that the contractor of a subsequent waterline project be responsible for the maintenance of silt fence installed with a preceding sanitary sewer project, a measured quantity bid item must be submitted for x-lf of silt fence maintenance.

The City's current BMP standard detail sheets shall be included in all plans. These five sheets must be included in every plan set developed for the City of Wichita, regardless of project size.

## **Attachment No. 2 to Exhibit "A" – CIP Scope of Services**

### **Required Plan Coordinate Information**

#### **Arterial Street Projects & Infill (Existing Neighborhoods)**

##### **I. SANITARY SEWER**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments
- benchmarks, including TBM set with preliminary survey
- center of manholes
- end of manhole stubs (when longer than five feet)

##### **II. WATER LINE**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments; any necessary points for establishing BL, including P.I.'s in BL
- benchmarks, including TBM set with preliminary survey
- beginning and ends of pipe
- all P.I.'s/deflections (horizontal and vertical)
- FH's, tees, bends, air release, valves

##### **III. STORM SEWER**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments; any necessary points for establishing BL, including P.I.'s in BL
- benchmarks, including TBM set with preliminary survey
- center of inside face on Type 1/1A curb inlets; center of high edge on Type 2 curb inlets
- for skewed inlets typically in intersection radii, or not parallel to baseline – center of curb inlet **AND** center of inside face on Type 1/1A curb inlets; center of high edge on Type 2 curb inlets
- end of end section, at CL of pipe
- center, end of pipe at outside face of headwall; if headwall not perpendicular to pipe, each corner of headwall at outside face
- center of all drop inlets, manholes, and other structures
- center of RCBC at each end (outside face of hubguard); if box rotated, each corner, outside face

##### **IV. PAVING**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to – section corners, property irons, intersection center-center irons, other set monuments; any necessary points for establishing BL, including P.I.'s in BL
- benchmarks, including TBM set with preliminary survey
- center of signal poles, service and junction boxes, controller, etc.; ends and P.I.'s for retaining walls, at back of walls

**THE SAME COORDINATE SYSTEM SHALL BE USED FOR ALL SEPARATE PHASES OF A LARGER INFILL OR ARTERIAL STREET PROJECT.**

**Sub-Division Projects**

**I. SANITARY SEWER**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey
- center of manholes
- back and/or front lot corners for specifically referenced easement grading, outside that included in mass grading projects; include coordinates for vertical P.I. locations not at lot corners
- end of manhole stubs (when longer than five feet)

**II. WATER DISTRIBUTION SYSTEM**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey
- beginning and ends of pipe
- all P.I.'s/deflections (horizontal and vertical)
- FH's, tees, bends, air release, valves

**III. WATER SUPPLY LINE**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all possible control as established or attained during preliminary survey, including but not limited to -- section corners, property irons, intersection center-center irons, other set monuments; any necessary points for establishing BL, including P.I.'s in BL
- benchmarks, including TBM set with preliminary survey
- beginning and ends of pipe
- all P.I.'s/deflections (horizontal and vertical)
- FH's, tees, bends, air release, valves

**IV. STORM SEWER**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey
- center of inside face on Type 1/1A curb inlets; center of high edge on Type 2 curb inlets
- for skewed inlets typically in intersection radii, or not parallel to baseline -- center of curb inlet AND center of inside face on Type 1/1A curb inlets; center of high edge on Type 2 curb inlets
- end of end section, at CL of pipe
- center, end of pipe at outside face of headwall; if headwall not perpendicular to pipe, each corner of headwall at outside face
- center of all drop inlets, manholes, and other structures
- center of RCBC at each end (outside face of hubguard); if box rotated, each corner, outside face

**V. MASS GRADING**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey
- all lot corners
- any grade breaks between front & rear lot corners
- high points/low points within drainage easements
- street area
  - centerline @ 100' Sta on tangent sections
  - pc/pt points & 50' along curves
- special drainage swales
  - pc/pt points, pi's & 50' Sta in between
- ponds
  - any grades breaks between pond bottom and rear property line
  - pc/mid radius/pt around pond curves
- for irregular shaped lots (mainly commercial or industrial developments) provide TIN file

## **VI. PAVING**

Provide a standard bubble map, as part of the plans, showing locations of numbered points, and a table with point number, northing and easting coordinates, description, and BL station for each point, for the following:

- all platted control irons (set or not), including plat boundary irons, for the entire sub-division, not just the current phase
- benchmarks, including TBM set with preliminary survey

**In addition to the required coordinate information, the following shall be included in all plans, at a minimum, as needed for construction staking on all City projects.**

- Include copy of plat(s) on all plans, as relevant and approved by the Design Engineer
- Benchmarks – minimum of two City standards, four total desirable; as close to project as possible, even if TBM set with preliminary survey.
- Benchmark elevations must be in the same datum as the design (i.e. NAV 88 design needs NAV 88 benchmarks, not NAV 29).
- All control irons/identified property irons shall be shown on plans, with BL stationing and offset
- Show deflection angles in BL, and/or bearing/azimuth of BL sections
- Arterial project side streets – provide BL station at CL of intersection of the two streets, on the BL; BL station and offset to CL of side street at removal limits; include deflection angle from BL to CL of side street
- Existing FL/pavement grades shown at all match points
- Top of curb grades and stationing at all ends-of-return and horizontal/vertical P.I.'s, not just even stationing
- CL top of pavement grades for arterial
- CL elevation for streets on mass grading work @ 100' Sta in tangent sections and 50' on curves.
- **ELEVATION SHALL BE TO TOP OF ROCK BASE.**
- BL station and offset at all R/W changes; include R/W corners at all intersections, even if no change in R/W
- Clearly show existing grades at R/W and beyond; identify removal limits beyond R/W (for grade purposes) with BL station and offset, or dimension from R/W
- Show offset distance between BL and proposed street CL when not the same; establish clear relationship between the two
- BL station and offset to center of signal poles, service and junction boxes, controllers, etc.
- BL station and offset to back of retaining walls, at ends of walls and all P.I.'s
- Concrete pavement – provide detailed joint pattern, dimensions, and elevations for all valley gutters, intersections, and mainline pavement; should be separate plan sheet(s) with clear and project-specific details
- Storm Sewer – BL station and offset for all curb inlets, drop inlets, manholes, and other structures (to the coordinate point locations detailed in previous sheets); same for SS and WL – pertinent facilities should be referenced to BL station and offset
- Sanitary Sewer – show deflection angles between MH's
- Flow line elevations for manhole stubs

- Curve Tables – should include bends, tees, valves, FH's etc. for waterlines; ends-of-return, P.I.'s, etc. for paving
- Should be able to accurately scale off of plans

**Attachment No. 3 to Exhibit "A" – CIP Scope of Services**

**Project Name**

**Utility Location Verification for ULCC Sub-Committee (Date)**

Field Check: ☐ Office Check: ☐

UTILITY: \_\_\_\_\_ Checked by \_\_\_\_\_ on \_\_\_\_\_

**Utility Location:**

- ☐ None in Project Limits ☐ In Project Limits, No Relocation Necessary  
☐ Utility will need to relocate ☐ Utility is located in Private Easement  
☐ Utility will need to relocate and is interested in **proposed** ROW (IF applicable) ☐ Private Easement Documentation Attached

**Briefly Describe Type and Location of Facilities within Project:**

\_\_\_\_\_  
\_\_\_\_\_

Estimate Time for Relocation: ☐ < 3 months ☐ 3-6 months ☐ 6-9 months ☐ > 9 months

Weather Sensitive: ☐ Yes ☐ No If yes, please explain: \_\_\_\_\_

Factors prerequisite to or that could affect relocation process (i.e. Regulatory Requirements):

\_\_\_\_\_  
\_\_\_\_\_

**Utility Plan Review:**

☐ Correct as Shown ☐ Corrections needed ☐ Attachments provided for Consultant

**Corrections necessary on plan sheets:**

\_\_\_\_\_  
\_\_\_\_\_

**Additional Information requested from Consultant:** \_\_\_\_\_

\_\_\_\_\_

**Utility Requests Paper Plans (choose one):** ☐ Full Size ☐ Half Size ☐ Cross-Sections (Full Size)

**Please email this form on or before Date to:**

Project Engineer Consultant  
Company  
E-mail

Leslie Hicks  
City of Wichita  
lhicks@wichita.gov

**Attachment No. 4 to Exhibit "A" – CIP Scope of Services**

Individual Project Name (i.e., Amidon, 21st to 29th Street North)												
Contract Date	Water Prod. Inv. City Proj. NO.	City Design Manager	Consultant	Date of First UROC	Date of Second UROC	Date of Plan Revision Distribution	Date of Second Plan Revision Distribution	R/W Purchased Y/N	Date Utilities Notified of R/W completion	Project Proposed Est. Date	Proposed Utility Clear Date (project)	
2/21/2013	111111/ XXXXXX	Kalkman	Weston/Engels & Sons	2/21/2013	2/21/2013			No				
			Utility Contact	Utility needs to relocate (Y/N)	Utility in Private Estimate (Y/N)			Utility needs PUD/ORD N/W to relocate (Y/N)	Relocation Notified Sensitivity (Y/N)	Estimated Date of Utility Design Completion	Time needed for relocation after utility design complete	Individual Utility Clear Date
<b>Westar (Distribution)</b>												
Location in Project: (Describe Existing Facilities)												
Relocation Needs:												
Comments:												
<b>Westar (Transmission)</b>												
Location in Project: (Describe Existing Facilities)												
Relocation Needs:												
Comments:												



<b>EGS</b>
<b>Location in Project:</b> (Describe Existing Facilities)
<b>Relocation Needs:</b>
<b>Comments:</b>
<b>Black Hills</b>
<b>Location in Project:</b> (Describe Existing Facilities)
<b>Relocation Needs:</b>
<b>Comments:</b>
<b>ATAF</b>
<b>Location in Project:</b> (Describe Existing Facilities)
<b>Relocation Needs:</b>
<b>Comments:</b>

<b>Out</b>
<b>Location in Project:</b> (Describe Existing Facilities)
Relocation Needs:
Comments:
<b>Water</b>
<b>Location in Project:</b> (Describe Existing Facilities)
Relocation Needs:
Comments:
<b>Sewer</b>
<b>Location in Project:</b> (Describe Existing Facilities)
Relocation Needs:
Comments:

<b>Summary:</b>
<b>Location in Project:</b> (Describe Existing Facilities)
<b>Relocation Needs:</b>
<b>Comments:</b>
<b>Other</b>
<b>Location in Project:</b> (Describe Existing Facilities)
<b>Relocation Needs:</b>
<b>Comments:</b>

**EXHIBIT "B"**

**REVISED NON-DISCRIMINATION AND  
EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM  
REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS**

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.
- B. Requirements of the State of Kansas:
  - 1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;
  - 2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";
  - 3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
  - 4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
  - 5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.
- C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:
  - 1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;
  - 2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;
  - 3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be

deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;

4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.
  5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
- D. Exempted from these requirements are:
1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
  2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.



DEPARTMENT OF LAW  
INTEROFFICE MEMORANDUM

**TO:** Karen Sublett, City Clerk  
**FROM:** Jennifer L. Magana, City Attorney & Director of Law *gm*  
**SUBJECT:** Report on Claims for March, 2016  
**DATE:** April 5, 2016

The following claims were approved by the Law Department during the month of March, 2016.

Coombs, Connie	\$ 205.33
Journey, Wesley	\$ 676.00
Martin, Thor	\$ 570.25
Senn, Dylan	\$ 116.00

\*City Manager Approval

\*\* Settled for lesser amount than claimed

\*\*\*Settled for more than amount claimed

cc: Robert Layton, City Manager  
Shawn Henning, Director of Finance

City of Wichita  
City Council Meeting  
April 19, 2016

**TO:** Mayor and City Council

**SUBJECT:** Sale of City-owned Property at 3017 and 3021 East 13<sup>th</sup> Street North (District I)

**INITIATED BY:** Office of Property Management

**AGENDA:** Consent

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**Recommendation:** Approve the sale.

**Background:** The City of Wichita has completed a project to widen East 13<sup>th</sup> Street North between Hydraulic and Oliver. The improvements included the addition of a center turn lane, sidewalk relocation away from the back of the curb, improvements to the storm water system, and improvements to the landscaping within the right-of-way. The project required the acquisition of all or part of 78 tracts. At the completion of construction, 24 parcels were identified as being potentially marketable. On July 7, 2015, the City Council declared the 24 parcels available as surplus. There are two remnant lots at 13<sup>th</sup> and Lorraine that were combined and made available for sale as remnant parcel number 17. The property at the southwest corner of 13<sup>th</sup> and Lorraine is comprised of both 3017 and 3021 East 13<sup>th</sup> Street North. The remnant parcel consists of approximately 8,775 square feet.

**Analysis:** The most advantageous offer for the parcel was received from the adjacent owner to the west. The offer of \$4,500 is \$.53 per square foot. The properties will be combined for residential development and the remnant parcel will be utilized as additional yard space.

**Financial Considerations:** The City will receive cash consideration for the sale of the property. The proceeds from the sale, net fees and operating expenses, will be applied back to the 13<sup>th</sup> Street project to offset the issuance of debt. Additionally, the sale of this property to a private party will place additional value into the tax base and relieve the City of the cost to maintain the property.

**Legal Considerations:** The Law Department has approved the real estate agreement as to form.

**Recommendation/Action:** It is recommended that the City Council 1) approve the sale; 2) approve the real estate agreement; and 3) authorize any necessary signatures.

**Attachment(s):** Real estate agreement, quit claim deed, and aerial map.

## REAL ESTATE SALE CONTRACT

THIS AGREEMENT, Made and entered into this 11 day of March, 2016 by and between the City of Wichita, Kansas, a municipal corporation, party of the First Part, hereinafter referred to as "Seller," whether one or more, and Lorena Vazquez, party of the Second Part, hereinafter referred to as "Buyer," whether one or more.

**WITNESSETH:** That for and in consideration of the mutual promises, covenants and payments hereinafter set out, the parties hereto do hereby contract to and with each other, as follows:

1. The Seller does hereby agree to sell and convey to the Buyer by a good and sufficient quit claim deed the following described real property, situated in Sedgwick County, Kansas, to-wit:  
  
The South 15 feet of Lot 3, and all of Lots 5 and 7, Lorraine Avenue, Fairmount Park Addition to Wichita, Sedgwick County, Kansas
2. The Buyer hereby agrees to purchase, and pay to the Seller, as consideration for the conveyance to him of the above-described real property, the sum of Four Thousand Five Hundred Dollars and Zero Cents (\$4,500) in the manner following to-wit: cash at closing
3. The Buyer agrees that the parcel described above will not be developed or sold separately from its adjacent ownership.
4. Seller and Buyer agree to convey title in and to the above-described real property, subject to easements, restrictions and special assessments of record, if any, acceptable to the other party. In the event an Owners title insurance policy is furnished, the total cost of the commitment to insure and the title insurance policy will be paid by Buyer.
5. A duly executed copy of this Purchase Agreement shall be delivered to the parties hereto.
6. It is further agreed by and between the parties hereto that all rentals, insurance (if policies acceptable to Buyer), and interest, if any shall be adjusted and prorated as of the closing date. Taxes and specials shall be pro-rated for calendar year on the basis of 100% of taxes levied for the prior year. All prior years specials and taxes shall be current at time of closing.
7. The Seller further agrees to convey the above-described premises and deliver possession of the same in the same condition as they now are, reasonable wear and tear accepted.
8. Seller shall place no encumbrances on the property during the period from execution of this contract to closing. In addition, Seller shall be responsible for carrying such insurance as is reasonable on the improvements up until the closing date.
9. It is understood and agreed between the parties hereto that time is of the essence of this contract, and that this transaction shall be consummated on or before May 8, 2016.
10. Possession to be given to Buyer at closing



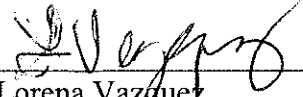
11. Closing costs, if any, shall be paid 50% by Buyer and 50% by Seller.
12. The parties covenant and agree that except for closing, title insurance, easement description, and commissions referenced elsewhere herein, each is solely responsible for the payment of any fee for brokerage, technical or other professional services relating to the execution and performance of this Contract incurred by such party.
13. Seller makes no warranty or guarantee as to the suitability of the real property proposed for trade for the intended use of Buyer. Therefore, Buyer covenants and agrees that Buyer at Buyer's own expense, shall examine the real property in order to determine such suitability including but not limited to:
  - A. Soils data and geology, drainage, hydrology and topographical features that would affect any present or future intended use;
  - B. The presence or absence of any contamination by any hazardous substance;
  - C. The quality and quantity of water available by on-site water wells, and the availability of a permit or permits therefore;
  - D. The nature, extent, and cost of public utilities needed to serve all or a portion of such real property;
  - E. The extent and cost of compliance with subdivision regulations, building codes and other applicable rules and regulations involving public improvements, private improvements, access, building setbacks, public dedications, platting and replatting requirements of such real property;
  - F. The nature and extent of zoning and subdivision statutes, laws, ordinances and regulations affecting the present use, and the ease or difficulty involved in the zone-change and subdivision approval procedures necessary or desirable to allow for the Buyer's intended use or uses.
14. Buyer also covenants and agrees that Buyer, his agents, successors and assigns any future use of the property as described above for the following uses shall be prohibited:
  - A. Adult Book and Video Stores
  - B. Community Correctional Facilities
  - C. Half-way Houses
  - D. Drug or Alcohol Rehabilitation Facilities
  - E. Multi-game, Casino-style Gambling Facilities
  - F. New or Used Car Sales
  - G. Commercial Billboards
15. The covenants and agreements contained in Paragraphs 13 and 14 shall survive the closing of the sale intended hereby, and they shall bind the buyer as fully after the sale as they do before.
16. Buyer hereby agrees; a) Buyer is accepting the subject property on an "AS IS" basis and in "AS IS" condition; and that Buyer's decision to enter into this contract and any future decisions he may make with regard to the property have been and will be made based on his own inspections. Buyer acknowledges that no representations or warranties as to

character, quality, value, or condition have been made by any of the brokers or agents involved, and also agrees not to make any claim against the Seller or the brokers involved.

17. Buyer hereby agrees to dedicate a permanent easement to the City of Wichita, Kansas for that part of the as-built sidewalk is located thereon Lot 8, Mt. Olive now Chautauqua Ave., Fairmount Park Addition, if the City of Wichita provides notice to Buyer declaring a public purpose and requiring an easement within six months of the closing date.

**WITNESS OUR HANDS AND SEALS** the day and year first above written.

**BUYER**

  
\_\_\_\_\_  
Lorena Vazquez

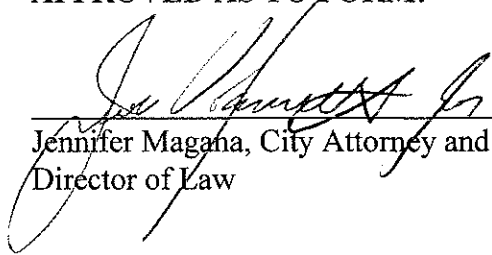
**SELLER**

\_\_\_\_\_  
Jeff Longwell, Mayor

**ATTEST:**

\_\_\_\_\_  
Karen Sublett, City Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Jennifer Magana, City Attorney and  
Director of Law

**QUIT CLAIM DEED**

Grantor(s): **The City of Wichita, Kansas, a municipal corporation**

Grantee(s): **Lorena Vazquez**

Grantee(s) mailing address:

WITNESSETH:

In consideration of One Dollar and other valuable consideration, the receipt of which is hereby acknowledged, the That said Grantor, in consideration of the sum of ONE DOLLAR, the receipt of which is hereby acknowledged, does by these presents, remise, release and quit claim unto said Grantee, their heirs and assigns, all the following described real estate situated in the City of Wichita, County of Sedgwick and State of Kansas, to-wit:

The South 15 feet of Lot 3, and all of Lots 5 and 7, Lorraine Avenue, Fairmount Park Addition to Wichita, Sedgwick County, Kansas

Subject to all easements, restrictions, reservations and covenants, if any, now of record.

TO HAVE AND TO HOLD THE SAME, Together with all and singular the tenements, hereditaments, and appurtenances thereto belonging or in anywise appertaining, forever.

IN WITNESS WHEREOF, the Grantor had hereunto set its hand the day and year first above written.

Dated: \_\_\_\_\_, 2016

The City of Wichita, Kansas, a municipal corporation:

\_\_\_\_\_  
Jeff Longwell, Mayor

STATE OF KANSAS            ) ss:  
COUNTY OF SEDGWICK    )

On \_\_\_\_\_, 2016, this deed was acknowledged before me by Jeff Longwell, Mayor of the City of Wichita, Kansas, a municipal corporation.

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

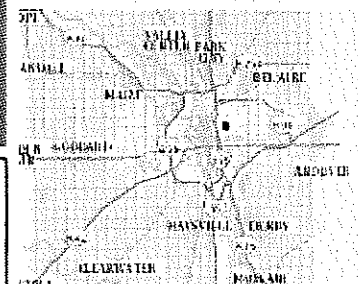
# 13th and Lorraine



## Legend

☐ Parcels

1:682



This information is not an official record, and cannot be used as such. The user should rely only upon official records available from the custodian of records in the appropriate City and/or County department. Some data provided here and used for the preparation of these maps has been obtained from public records not created or maintained by the City of Wichita.

Map Created On: 4/5/16 3:01 PM

RESOLUTION NO. 16-084

A RESOLUTION ESTABLISHING THE ORDER OF SUCCESSION, IN THE ABSENCE FROM THE  
CITY OF THE MAYOR AND THE VICE MAYOR.

WHEREAS, Section 2.04.032 of the City Code provides that the City Council is to designate from membership, members to serve as Mayor in the absence from the City of the Mayor, Vice Mayor, or other Council Members:

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF WICHITA, KANSAS:

SECTION 1. That the order of succession as Mayor of the City of Wichita, Kansas, in the absence of the Mayor and the Vice Mayor or other Council Member shall be:

Council Member Lavonta Williams  
Council Member Janet Miller  
Council Member Pete Meitzner  
Council Member Jeff Blubaugh  
Council Member Bryan Frye  
Council Member James Clendenin

SECTION 2. This Resolution shall be in force and effect after its passage.

ADOPTED at Wichita, Kansas, this 19th day of April, 2016.

\_\_\_\_\_  
Jeff Longwell, Mayor

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Jennifer Magaña, City Attorney and Director of Law

**Second Reading Ordinances for April 19, 2016 (first read on April 12, 2016)**

**A. Public Hearing and Issuance of health Care Facilities Revenue Bonds, American Baptist Estates. (District IV)**

ORDINANCE NO. 50-173

AN ORDINANCE AUTHORIZING THE CITY OF WICHITA, KANSAS TO ISSUE ITS HEALTH CARE FACILITIES REVENUE BONDS, SERIES I, 2016 (AMERICAN BAPTIST ESTATES, INC.) FOR THE PURPOSE OF THE CONSTRUCTION, FURNISHING AND EQUIPPING OF ADDITIONS TO A CONTINUING CARE RETIREMENT FACILITY; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH.

**B. Ordinance Repealing 11.38.140 Regrading Refusal of Alcohol Testing.**

ORDINANCE NO. 50-174

AN ORDINANCE REPEALING THE ORIGINAL OF SECTION 11.38.140 OF THE CODE OF THE CITY OF WICHITA, PERTAINING TO THE REFUSAL OF ALCOHOL TESTING

**C. SUB2015-00025 Plat of Rawand Estates Addition Located on the West Side of North Webb Road, South of ast 45<sup>th</sup> Street North.**

ORDINANCE NO. 50-175

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

City of Wichita  
City Council Meeting  
April 19, 2016

**TO:** Mayor and City Council

**SUBJECT:** SUB2015-00039 -- Plat of Advanced Learning Library Addition Located on the Southwest Corner of West 2<sup>nd</sup> Street North and North MacLean Boulevard (District VI)

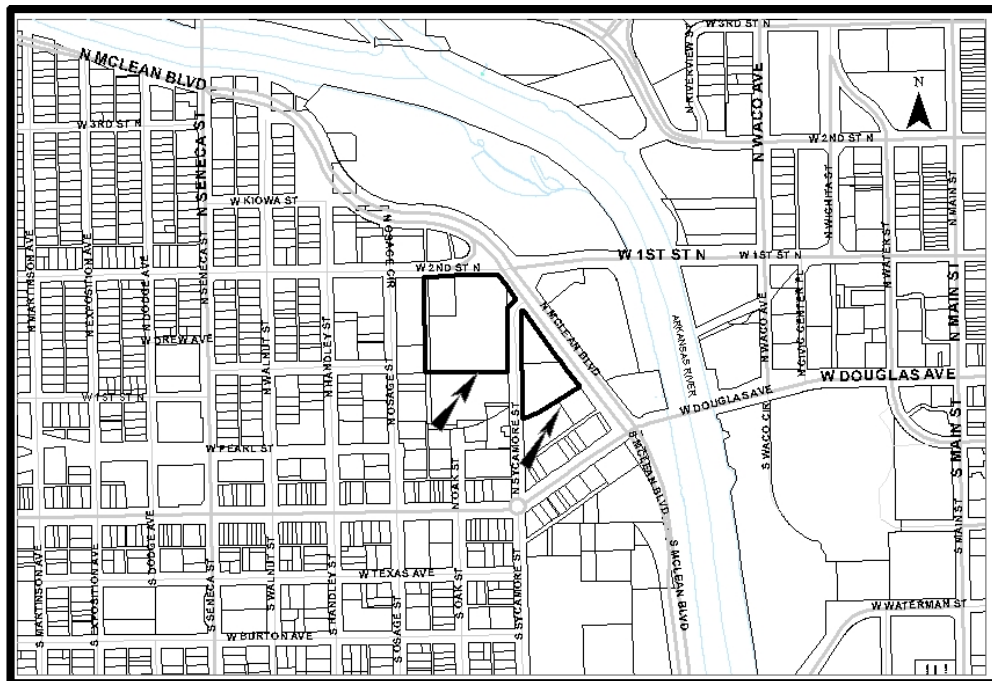
**INITIATED BY:** Metropolitan Area Planning Department

**AGENDA:** Planning (Consent)

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**Staff Recommendation:** Approve the plat.

**MAPC Recommendation:** Approve the plat. (13-0)



**Background:** The site consists of two lots on 8.72 acres on property zoned Central Business District (CBD). The City of Wichita is the owner of the property.

**Analysis:** Water and sewer services are available to serve the site. The applicant has submitted a Sidewalk Certificate for construction of sidewalks along West Second Street North and North Sycamore Street.

The plat has been reviewed and approved by the Metropolitan Area Planning Commission subject to conditions.

**Financial Considerations:** There are no financial considerations associated with the plat.

**Legal Considerations:** The Law Department has reviewed and approved the Sidewalk Certificate as to form and the document will be recorded with the Register of Deeds.

**Recommendations/Actions:** It is recommended that the City Council approve the document and plat and authorize the necessary signatures for approval and ownership of the plat.

**Attachment:** Sidewalk Certificate





SIDEWALK CERTIFICATE

STATE OF KANSAS            )  
                                      ) SS  
COUNTY OF SEDGWICK    )

We, the City of Wichita, Kansas, owner of Advanced Learning Library Addition, do hereby acknowledge that in accordance with the requirement of the WSCMAPD Subdivision Regulations and the Sidewalk Ordinance of the City of Wichita, Kansas, construction of sidewalk is required at the following location:

Along the street frontage of Sycamore Street.

This is to place on notice all owners of the above-described property and subsequent owners thereof that, as a result of the above-cited regulations and ordinances, said owners and subsequent owners thereof are responsible for seeing that sidewalks are installed or guaranteed by cash or other acceptable financial means as a precondition of the issuance of a building permit for all development occurring on the above-described property.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

City of Wichita, Kansas

By: \_\_\_\_\_  
Jeff Longwell, Mayor

ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

Approved as to form:

  
\_\_\_\_\_  
Jennifer Magaña,  
City Attorney and Director of Law

**City of Wichita  
City Council Meeting  
April 19, 2016**

**TO:** Mayor and City Council

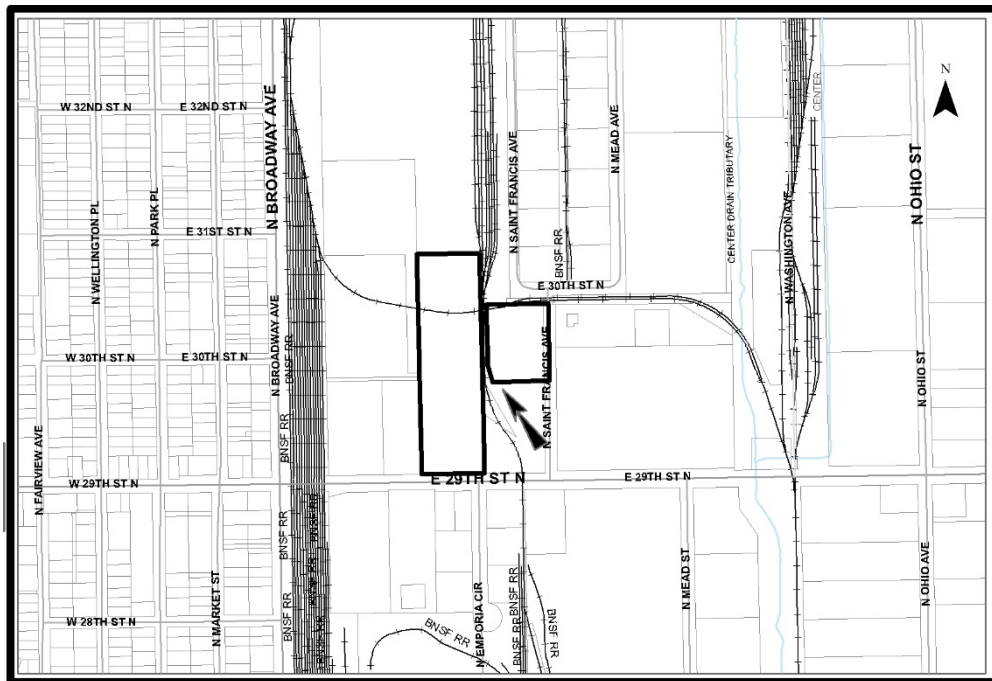
**SUBJECT:** SUB2016-00006 -- Plat of Flint Hills Materials Addition Located on the North Side of East 29<sup>th</sup> Street North, East of North Broadway Avenue (District VI)

**INITIATED BY:** Metropolitan Area Planning Department

**AGENDA:** Planning (Consent)

**Staff Recommendation:** Approve the plat.

**MAPC Recommendation:** Approve the plat. (8-0)



**Background:** The site consists of a two lots on 11.52 acres zoned General Industrial (GI).

**Analysis:** Water service is available to serve the site. Sewer improvements will be constructed by a private project. The applicant has submitted a Restrictive Covenant to provide for the ownership and maintenance responsibilities of the reserve being platted.

The plat has been reviewed and approved by the Metropolitan Area Planning Commission subject to conditions.

**Financial Considerations:** There are no financial considerations associated with the plat.

**Legal Considerations:** The Law Department has reviewed and approved the Restrictive Covenant as to form and the document will be recorded with the Register of Deeds.

**Recommendations/Actions:** It is recommended that the City Council approve the document and plat and authorize the necessary signatures.

**Attachment:** Restrictive Covenant

Restrictive Covenant

This covenant, executed this 23 day of March, 2016.

WITNESSETH:

WHEREAS, the undersigned are in the process of platting that certain real property to be known as Flint Hills Materials Addition, Wichita, Sedgwick County, Kansas; and

WHEREAS, as a part of the platting process certain requirements have been made by the Wichita-Sedgwick County Metropolitan Commission providing for the ownership and maintenance of the reserves.

NOW, THEREFORE, the undersigned do hereby subject Flint Hills Materials Addition to Wichita, Sedgwick County, Kansas, to the following covenants:

1. The reserves located in said addition will be conveyed to the lot owners at such time as the project is sold to or occupied by owners or tenants other than the undersigned.
2. Until said reserves are so conveyed, the ownership and maintenance of the reserves shall be by the undersigned.
3. In the event that the undersigned, its successors or assigns, shall fail to maintain the reserves, the City of Wichita may serve a Notice of Delinquency upon the undersigned setting forth the manner in which the undersigned has failed to fulfill its obligations, as defined in the Operation and Maintenance Manual, recorded at the Sedgwick County Register of Deeds. Such Notice shall include a statement describing the obligation that has not been fulfilled. If said obligation has not been fulfilled within the said time specified, the City of Wichita, may, in order to preserve the taxable value of the properties within the Addition and to prevent the reserves from being a nuisance, enter upon said reserves and perform the obligations listed in the Notice of Delinquency. All cost incurred by the City of Wichita in carrying out the obligations of the undersigned may be assessed against the reserves in the same manner as

4. This covenant is binding on the owners, their successors and assigns, and is a covenant running with the land and is binding on all successors in title to the above described property.

By: Chad Paul Bledsoe  
Chad Bledsoe, Manager  
Flint Hills Materials, LLC

Joanne Doris Swerland  
Notary Public - State of Kansas  
My Appt. Expires 11-18-07

554

City of Wichita  
City Council Meeting  
April 19, 2016

**TO:** Mayor and City Council

**SUBJECT:** PUD2016-00001 – Zone Change from LC Limited Commercial Under Community Unit Plan (CUP) DP 226 to Planned Unit Development #49 on Property Generally Located North of East Kellogg and ½ Mile East of 143<sup>rd</sup> Street East (District II)

**INITIATED BY:** Metropolitan Area Planning Department

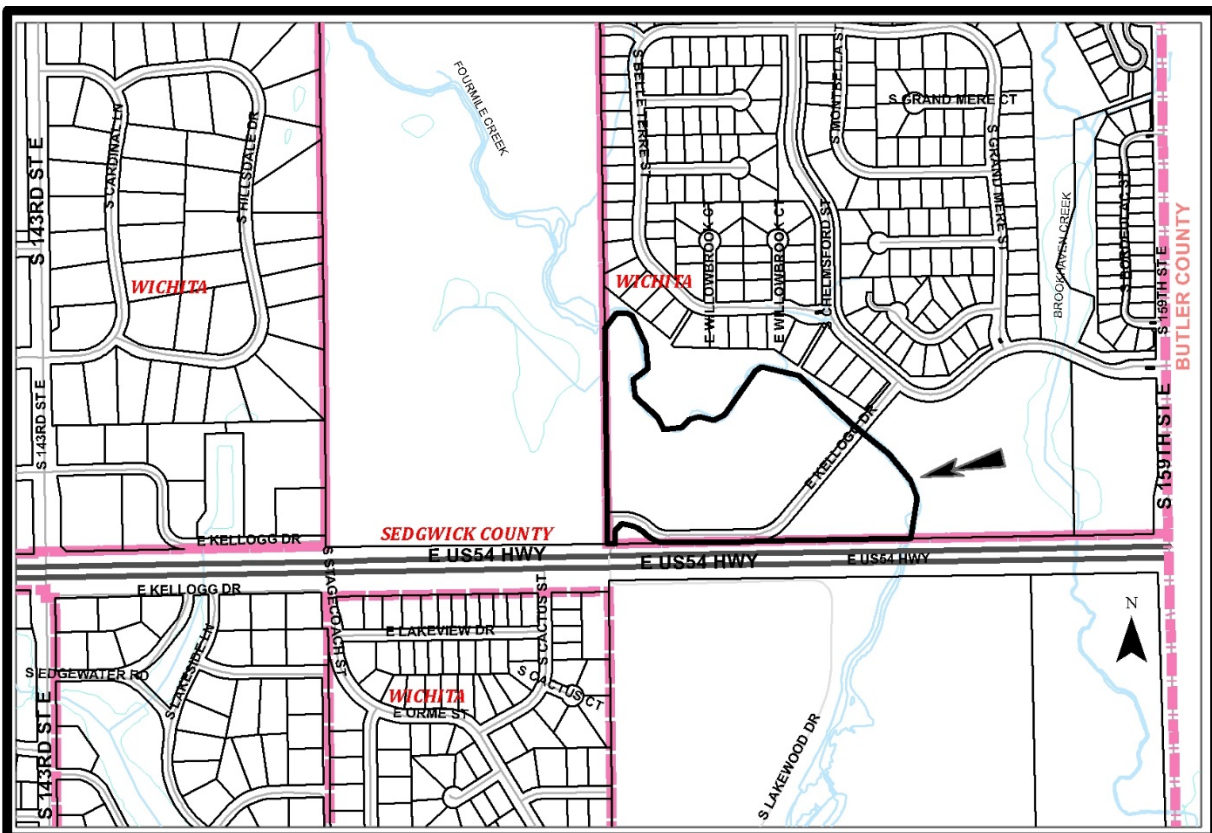
**AGENDA:** Planning (Consent)

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**MAPC Recommendation:** The Metropolitan Area Planning Commission recommended approval of the request (9-2) subject to staff recommended conditions.

**DAB Recommendation:** District Advisory Board II recommended approval of the request (4-2) subject to staff recommended conditions.

**MAPD Staff Recommendation:** Metropolitan Area Planning Department staff recommended approval of the request subject to conditions.



**Background:** The undeveloped application area is located north of East Kellogg (US 54 Highway), at the half-mile location between South 143<sup>rd</sup> Street East and South 159<sup>th</sup> Street East. The applicants propose rezoning this property from LC Limited Commercial (LC) to PUD #49, the Belle Terre Commercial Planned Unit Development. In addition to rezoning, the PUD would remove this site from the existing CUP DP-226 and associated restrictions. The remaining DP-226 will continue to exist east of the site. The applicants operate a construction sales and service business and an equipment rental and sales business; both businesses require outdoor storage and display. The applicants propose to relocate their businesses to this site. The applicants also own a digital billboard which they propose to place on this site and use for on and off-site advertising. Planned Unit Development zoning is a special purpose zoning district that is intended to encourage innovative land planning and design and can be used to reduce or eliminate inflexibility that can sometimes result from strict application of the basic requirements of individual zoning districts; allows greater freedom in selecting the means to provide light, air and open space to projects; allows development to take advantage of special site characteristics or land uses and allows for deviation from certain zoning standards that would otherwise apply if not contrary to the general spirit and intent of the zoning code.

The platted 19.4-acre site is undeveloped with a heavily wooded floodway and landscape buffer along the north and east boundaries following Four Mile Creek. An irregular shaped reserve (Reserve L) sits at the southwest corner of the site; it is an exception as it is not owned by the applicant. The platted Kellogg Drive on the site is unimproved. The site currently has one 35-foot wide access point to the Kellogg Expressway at the west boundary. The proposed PUD requires re-platting the site, closing this one access point and establishing a right-in right-out only access point east of Reserve L. The right-in right-out access point will have acceleration and deceleration lane improvements guaranteed by the developer. Re-platting will also include re-routing Kellogg Drive to function as a frontage road along US-54 and eliminating its northern connection to a residential subdivision, and determination of dedication for the future expansion of the Kellogg Expressway. The proposed PUD includes two parcels and two reserves for the floodway and landscape buffer and storm water control. The PUD has a 5-foot wall easement along the west property line, 35-foot building setbacks from the west and south property lines, and a designated display area along the Kellogg Drive frontage.

Proposed PUD specifications include signage limited to LC zoning, restricted to 20 feet in height, must be monument signs, and prohibits portable signs. The PUD proposes one off-site, LED, billboard sign which may advertise on or off-site purposes. The off-site sign must be setback 150 feet from the Kellogg Expressway and 300 feet from the west property line, it is limited to 14 by 48 feet in size and 30 feet in height, and requires permitting from state authorities. Without the proposed PUD, this off-site sign would not be permitted by the Sign Code, as adequate commercial zoning (without CUP prohibitions) does not exist in this mile of frontage. The existing CUP, DP-226, prohibits off-site signs. The Sign Code prohibits off-site signs from being used for on-site advertising.

The proposed PUD limits light pole height to 15 feet, requires underground utilities, requires a masonry wall on the west boundary when development occurs within 300 feet, prohibits outdoor speakers and noise trespass beyond property lines, and requires screening of rooftop mechanical equipment and trash receptacles. The PUD requires architectural consistency between buildings and site circulation approval for new buildings. The PUD requires that outdoor storage of materials and equipment be 150 feet from surrounding property or right-of-way. Outdoor storage must be visually screened from all surrounding properties and from all public right-of-way, to include US 54, and may not be stacked or piled higher than screening walls or landscaping. The PUD requires a landscape plan which may use existing vegetation to contribute towards the 25-foot landscape buffer separating this site from residential zoning. Evergreen screening, meeting the code definition of solid screening, may be used in lieu of a screening wall along the north property line. The PUD requires paving of all internal circulation to mitigate dust.

The proposed PUD would allow GC General Commercial (GC) uses with the following prohibitions: manufactured/mobile homes, assisted living, group residence, auditorium, cemetery, community assembly, correctional placement residence, golf course, library, entertainment establishment, event center, farmers market, kennel, hobby and boarding/breeding/training, recreational marine facility, indoor and outdoor recreation and entertainment, rodeo, riding academy or stable, sexually oriented business in



the city, tattooing and body piercing facility, teen club, vocational school, hospital, recycling collection stations, reverse vending machine, school (elementary, middle and high), car wash, convenience stores, night club, pawn shop, service stations, tavern and drinking establishments, vehicle repair, adult entertainment, recycling processing, second hand store, microbrewery, self-service warehouse, RV campground, outdoor vehicle sales, manufacturing (limited and general), vehicle storage yard, warehousing, and welding or machine shop. No hotels or motels are permitted on the west 300 feet. Any use requiring a conditional use in GC zoning requires a PUD amendment. The land use differences between this PUD and the existing CUP are: outdoor equipment rental and sales, contractor sales and services (to include associated outdoor storage), retail, restaurants, animal care and banking.

**Analysis:** On March 17, 2016, the Metropolitan Area Planning Commission (MAPC) heard this request. A representative of the Belle Terre HOA addressed the MAPC with concerns regarding traffic, uses and impacts on the residential neighborhood. The MAPC approved (9-2) the application subject to the following conditions:

- A. The PUD is subject to re-platting to include: complete access control except for one right-in right-out only access point to US-54 located east of Reserve L, guarantee of acceleration and deceleration lane improvements, reconfiguration of Kellogg Drive to a frontage road with emergency access to the vacated portion of Kellogg Drive if required, dedications for the future Kellogg Expressway will be determined, and a drainage plan and associated guarantees will be required.
- B. The off-site sign shall be permitted for off-site advertising only; on-site advertising is prohibited per the Sign Code.
- C. The off-site sign shall be located a minimum of 600 feet east of the west property line.
- D. The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

On March 14, 2016, District Advisory Board (DAB) II reviewed the application, members of the Belle Terre HOA spoke in opposition of the request. The DAB approved the request 4-2.

No protest petitions have been received. The request can be approved with a simple majority vote.

**Financial Considerations:** Approval of this request will not create any financial obligations for the City.

**Legal Considerations:** The Law Department has reviewed and approved the ordinance as to form.

**Recommendation/Actions:** It is recommended that the City Council adopt the findings of the MAPC and approve the requested zone change subject to the MAPC recommended conditions (simple majority vote) and place the ordinance on the first reading.

**Attachments:** PUD drawing, ordinance, correspondence from a neighboring property owner, MAPC and DAB minutes.

ORDINANCE NO. 50-190

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

BE IT ORDAINED BY THE GOVERNING BODY  
OF THE CITY OF WICHITA, KANSAS.

SECTION 1. That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

Case No. PUD2016-00001

Zone change request from LC Limited Commercial (LC) with DP-226 to Planned Unit Development (PUD) #49 on property located north of East Kellogg and ½ mile east of 143<sup>rd</sup> Street East described as Lot 1, Block 1 and Lot 1, Block 2, Belle Terre South an Addition to Sedgwick County, Kansas.

SECTION 2. That upon the taking effect of this ordinance, the above zoning change shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita -Sedgwick County Unified Zoning Code as amended.

SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

ADOPTED this 26th day of April, 2016.

\_\_\_\_\_  
Jeff Longwell, Mayor

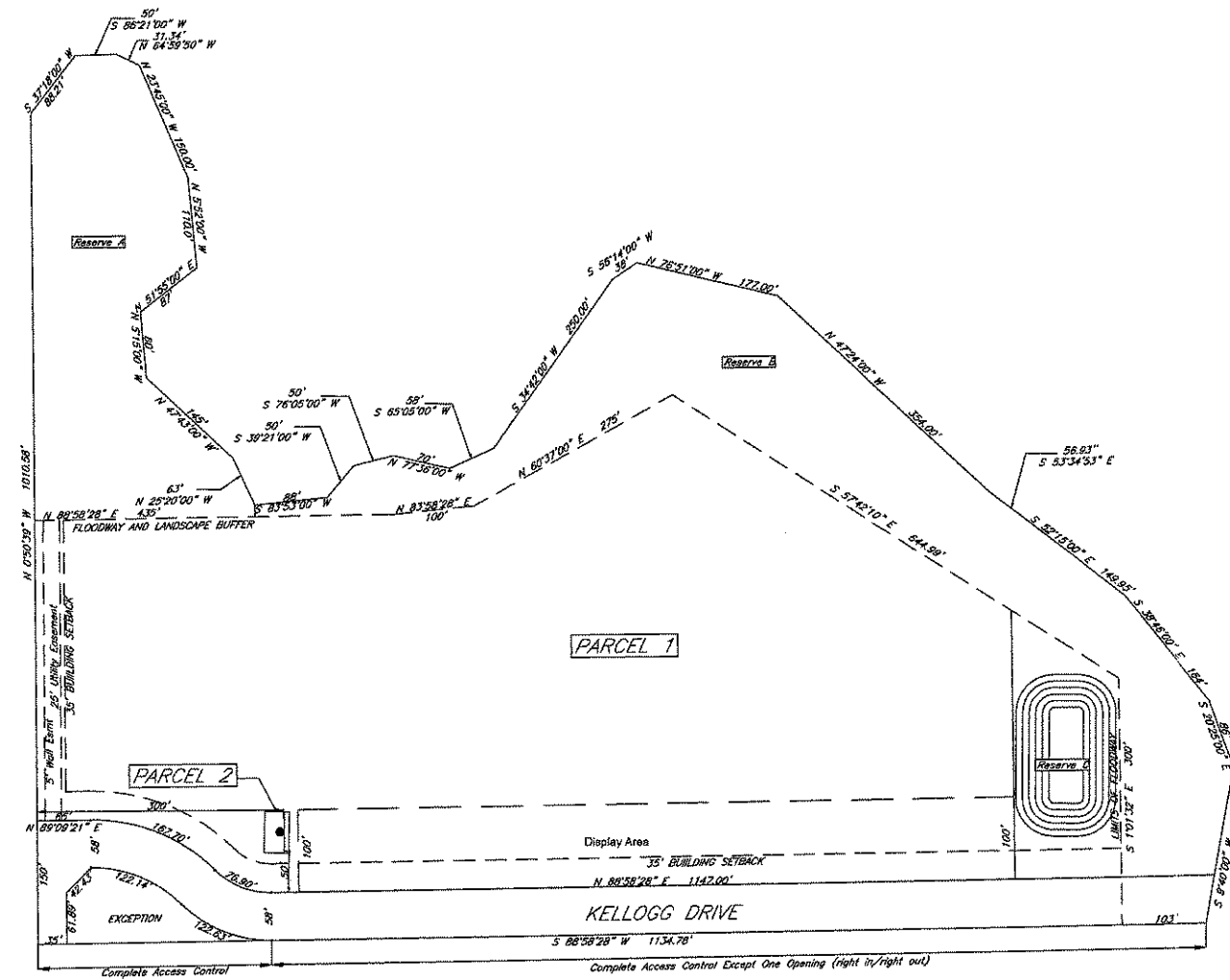
ATTEST:

\_\_\_\_\_  
Karen Sublett, City Clerk

(SEAL)

Approved as to form: \_\_\_\_\_  
Jennifer Magana, City Attorney and Director of Law

BELLE TERRE COMMERCIAL  
PLANNED UNIT DEVELOPMENT  
PUD2016-01



US-54

<b>PARCEL 1:</b>	
A. Net Area:	845,573 sq. ft. ± 19.41 acres ±
B. Maximum Building Coverage	296,475 sq. ft.
C. Maximum Gross Floor Area	444,713 sq. ft.
D. Floor Area Ratio	0.35
E. Maximum Number of Buildings	12
F. Maximum Building height	45' Except all buildings in the west 300 feet of the parcel shall be limited to one story and a building height of 35'
G. Setbacks	See Drawing
H. Access Points	1 on U.S. Highway 54
I. Parking	Per Code
Permitted Uses:	See General Provision #14.

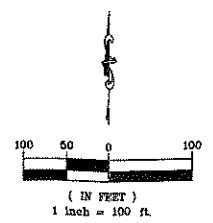
<b>PARCEL 2:</b>	
1. Net Area:	1500 sq. ft. ± 0.03 acres ±
2. Permitted Uses:	off-site sign

**LEGAL DESCRIPTION:**  
Lot 1, Block 1 Belle Terre South Addition,  
and Lot 1, Block 2 Belle Terre South Addition.

**GENERAL PROVISIONS:**

1. Total Land Area 847,073 sq. ft. or 19.45 acres
2. Parking shall be provided in accordance with Article IV of the Unified Zoning Code.
3. Setbacks are as indicated on the P.U.D. drawing.
4. A drainage plan shall be submitted to City Engineering for approval. Required guarantees for drainage shall be provided at the time of platting improvements.
5. Signs shall be in accordance with the LC zoning district in the Sign Code of the City of Wichita, with the following additional requirements:
  - A. Parcel 1 is permitted the following freestanding signage: Six signs with a maximum height of 20'. Spacing between signs shall be 150 feet. Maximum area for signs shall not exceed 0.5 times the parcel frontage.
  - B. Portable signs are not permitted.
  - C. Ground signs shall be monument type.
  - D. One off-site sign shall be allowed on Parcel 2 of the PUD.
    - a. The off-site sign shall be 150' setback from U.S. Highway 54, and 300' east of the west property line.
    - b. The off-site sign may be used for off-site or on-site purposes.
    - c. All regulations for the off-site sign are governed by this PUD; Off-site regulations in Title 24 do not govern except for brightness control and limitations.
    - d. The off-site sign may be LED.
    - e. The maximum size for the off-site sign is 14'x45', maximum height is 30'.
    - f. Off-site signage requires appropriate permits from State authorities.
6. Access to U.S. Highway 54 shall be limited to 1 opening to Parcel 1 to be determined at the time of platting. There shall be complete access control on the remaining U.S. 54 Highway Frontage.
7. Parcel 1 shall install similar or consistent parking lot lighting elements (i.e., fixtures, poles, and lamps, etc.).
  - A. The height of all light poles, including pole base, is limited to 15 feet.
  - B. All exterior lighting shall be shielded to direct light disbursement in a downward direction and away from residential areas.
  - C. Utilities shall be installed underground on all parcels.
  - D. Landscape buffers and screening shall be in accordance with the City of Wichita Landscape Ordinance.
8. A Landscape Plan shall be prepared by a Kansas Landscape Architect for the above referenced landscaping, indicating the type, location, and specifications of all plant material. The landscape plan shall also state how water is to be provided to the plant materials. This plan shall be submitted to the Planning Department for their review and approval prior to issuance of a building permit.
9. A financial guarantee for the plant material and watering requirements approved on the landscape plan for that portion of the P.U.D. being developed shall be required prior to issuance of any occupancy permit, if the required landscape has not been planted.
10. The applicant shall guarantee the construction of a 6'-8' masonry wall south of the floodway reserve to Kellogg Drive as shown on the P.U.D. along the west property line of Parcel 1. Said wall will be required at such time as development occurs within the west 300' of Parcel 1 and guaranteed at the time of building permit(s) for Parcel 1.
11. The wall requirements along the north and west property line of Parcel 1 that are within the floodway shall be modified to permit a 25' landscape buffer in lieu of the masonry wall due to the existing vegetation and floodway reserve separating Parcel 1 from the adjoining Residential Zoned Property. The existing vegetation may contribute to satisfying the evergreen screening in the 25'
12. Noise from the site shall not be audible from adjacent or surrounding property above the local, ambient noise. No outdoor speaker systems shall be permitted.
13. All rooftop mechanical equipment shall be screened from ground-level view from adjacent residential areas and adjacent street right of way.
14. Trash receptacles and ground level mechanical equipment shall be screened to reasonably hide them from ground level view, adjacent property and street right of way.
15. All building exteriors in the P.U.D. shall share a consistent architectural design, color, and texture. Exterior utility boxes, mechanical equipment, and etc., shall

- be screened and/or painted according to the acceptable color range. All light fixtures shall share consistent design (i.e., fixtures, poles, lamps, etc.). Variations must be approved by the Director of Planning.
14. Fire lanes shall be in accordance with the Fire Code of the City of Wichita. No parking shall be allowed in said fire lanes, although they may be used for passenger loading and unloading. The Fire Chief or his designated representative shall review and approve the location and design of all fire lanes. Fire hydrant installation and paved access to all building sites shall be provided for each phase of construction prior to the issuance of building permits.
  15. Uses in Parcel 1 shall be limited to the following: All uses permitted in G.C. zoning district except for the following: manufactured/mobile homes, assisted living, group residence, auditorium, cemetery, community assembly, correctional placement residence, golf course, library, entertainment establishment, event center, farmer's market, kennel, hobby and boarding/breeding/training, recreational marine facility, indoor and outdoor recreation and entertainment, rodeo, riding academy or stable, sexually oriented business in the city, tattooing and body piercing facility, teen club, vocational school, hospital, recycling collection stations, reverse vending machine, elementary, middle and high schools, car wash, convenience stores, night club, pawn shop, service stations, tavern and drinking establishments, vehicle repair, adult entertainment establishments, recycling processing center, second hand store, microbrewery, self-service warehouse, RV campground, outdoor vehicle sales, manufacturing limited and general, vehicle storage yard, warehousing, and welding or machine shop as defined in the City of Wichita ordinances. There shall be no hotels or motels in the west 300 feet of the parcel. Outdoor rental and sales of equipment shall be allowed. Any use requiring a conditional use in GC zoning shall require a PUD amendment.
  16. The PUD is subject to replatting the property, when access controls and improvements (to include acceleration and deceleration lanes) will be determined, when vacation of a portion Kellogg Drive will be determined, and emergency access to Kellogg Drive will be determined. Replatting the site is when dedications for Kellogg expansions will be determined.
  17. Development of the site will not be permitted without connection to public water and sewer.
  18. All outdoor storage of equipment and materials shall be visually screened from all surrounding properties and all adjacent right of way, to include US-54. Material shall not be stacked or piled higher than the screening walls or landscaping. Planning Staff site plan approval is required for designated outdoor material and equipment storage, which shall not be within 150' of any adjacent property or right-of-way.
  19. All internal circulation drives shall be paved with concrete or asphalt to mitigate dust.
  20. A site circulation plan shall be required for review and approval by the Planning Director prior to the issuance of any building permits. The site circulation plan shall ensure pedestrian linkages between buildings and the sidewalk system and shall ensure internal vehicular circulation among developments within the P.U.D., including joint use of ingress/egress openings and ensuring that drive openings are not impacted/blocked by the layout of parking stalls or landscaping.
  21. Amendments, adjustments or interpretations to this P.U.D. shall be done in accordance with the Unified Zoning Code.
  22. The Transfer of title of all or any portion of land included within the Planned Unit Development (or any amendments thereto) does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land and be binding upon present owners, their successors and assigns.
  23. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approval by the Governing Body, and any substantial deviation of the plan, as determined by the Zoning Administrator or the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
  24. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.



Prepared 2-4-2016

**KEMILLER**  
ENGINEERING PA

117 E. Lewis, Wichita, KS 67202 (316)264-0242

3-17-16 MAPC

HANDOUT

ITEM # 6

**Crockett, Maryann**

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**From:** McNeely, Jess  
**Sent:** Friday, March 11, 2016 4:28 PM  
**To:** Crockett, Maryann; Rainwater, Laura  
**Cc:** Knebel, Scott  
**Subject:** FW: Case No: PUD2016-00001

**To:** McNeely, Jess <JMcNeely@wichita.gov>  
**Cc:** 'Jack Shelton' <jackshelton@icloud.com>  
**Subject:** Case No: PUD2016-00001

Jess,

Our firm represents Jack Shelton, Trustee of the Jack Shelton Revocable Trust. Jack and his Trust are the neighboring land owners to the west of the proposed Planned Unit Development. Jack previously discussed the location of the billboard sign with the applicant, and while Jack and the applicant did not discuss the specific location of the billboard sign, they did discuss that the applicant would not locate the sign too close to Jack's property. The primary concern at the time of the discussion was, and still is, the visibility of the sign from Jack's property.

Due to the terrain at PUD property, the planned location of the sign 300 feet east of the west property line would cause the sign to be extremely visible from Jack's property, especially with the billboard being an LED or other form of electronic billboard. We feel that the proposed location would have a significant negative impact on Jack's and the Trust beneficiaries' use and enjoyment of the property. We respectfully request that the PUD be revised to cause the billboard to be located at least 600 feet east of the west property line. We believe that this is the minimum distance required to resolve Jack's concerns regarding visibility.

We ask that this email, and the concerns and requests stated herein, be shared at the MAPC public hearing as well as the District Advisory Board II meeting.

**Sincerely,**

**Robert Smith**  
Foulston Siefkin LLP  
1551 N. Waterfront Parkway, Suite 100  
Wichita, KS 67206-4466  
Telephone: 316.291.9779

**EXCERPT MINUTES OF THE MARCH 17, 2016 WICHITA-SEDGWICK COUNTY  
METROPOLITAN AREA PLANNING COMMISSION HEARING**

**Case No.: PUD2016-00001-** Jesri Investments, LLC (Applicant/Owner) and KE Miller Engineering, P.A., c/o Kirk Miller (Agent) request a City rezoning for a Planned Unit Development (PUD) to allow GC General Commercial uses with restrictions and an offsite billboard sign on property described as:

Lot 1, Block 1 and Lot 1, Block 2, Belle Terre South an Addition to Sedgwick County, Kansas.

**BACKGROUND:** The undeveloped application area is located north of East Kellogg (US 54 Highway), at the half-mile location between South 143<sup>rd</sup> Street East and South 159<sup>th</sup> Street East. The applicants propose rezoning this property from LC Limited Commercial (LC) to PUD #49, the Belle Terre Commercial Planned Unit Development. In addition to rezoning, the PUD would remove this site from the existing CUP DP-226 and associated restrictions. The remaining DP-226 will continue to exist east of the site. The applicants operate a construction sales and service business and an equipment rental and sales business; both businesses require outdoor storage and display. The applicants propose to relocate their businesses to this site. The applicants also own a digital billboard which they propose to place on this site and use for on and off-site advertising. According to the Unified Zoning Code (UZC), a PUD is intended to:

- (1) Reduce or eliminate the inflexibility that sometimes results from strict application of zoning standards that were designed primarily for individual lots;
- (2) Allow greater freedom in selecting the means to provide access, light, open space and design amenities;
3. Promote quality urban design and environmentally sensitive development by allowing development to take advantage of special site characteristics, locations and land uses; and
4. Allow deviations from certain zoning standards that would otherwise apply if not contrary to the general spirit and intent of this Code.

The platted 19.4-acre site is undeveloped with a heavily wooded floodway and landscape buffer along the north and east boundaries following Four Mile Creek. An irregular shaped reserve (Reserve L) sits at the southwest corner of the site; it is an exception as it is not owned by the applicant. The platted Kellogg Drive on the site is unimproved. The site currently has one 35-foot wide access point to the Kellogg Expressway at the west boundary. The proposed PUD requires re-platting the site, closing this one access point and establishing a right-in right-out only access point east of Reserve L. The right-in right-out access point will have acceleration and deceleration lane improvements guaranteed by the developer. Re-platting will also include re-routing Kellogg Drive to function as a frontage road along US-54 and eliminating its northern connection to a residential subdivision, and determination of dedication for the future expansion of the Kellogg Expressway. The proposed PUD includes two parcels and two reserves for the floodway and landscape buffer and storm water control. The PUD has a 5-foot wall easement along the west property line, 35-foot building setbacks from the west and south property lines, and a designated display area along the Kellogg Drive frontage.

Proposed PUD specifications include signage limited to LC zoning, restricted to 20 feet in height, must be monument signs, and prohibits portable signs. The PUD proposes one off-site, LED, billboard sign which may advertise on or off-site purposes. The off-site sign must be setback 150 feet from the Kellogg Expressway and 300 feet from the west property line, it is limited to 14 by 48 feet in size and 30 feet in height, and requires permitting from state authorities. Without the proposed PUD, this off-site sign would not be permitted by the Sign Code, as adequate commercial zoning (without CUP prohibitions) does not exist in this mile of frontage. The existing CUP, DP-226, prohibits off-site signs. The Sign Code prohibits off-site signs from being used for on-site advertising.

The PUD limits light pole height to 15 feet, requires underground utilities, requires a masonry wall on the west boundary when development occurs within 300 feet, prohibits outdoor speakers and noise trespass beyond property lines, and requires screening of rooftop mechanical equipment and trash receptacles. The PUD requires architectural consistency between buildings and site circulation approval for new buildings. The PUD requires that outdoor storage of materials and equipment be 150 feet from surrounding property or right-of-way. Outdoor storage must be visually screened from all surrounding properties and from all public right-of-way, to include US 54, and may not be stacked or piled higher than screening walls or landscaping. The PUD requires a landscape plan which may use existing vegetation to contribute towards the 25-foot landscape buffer separating this site from residential zoning. Evergreen screening, meeting the code definition of solid screening, may be used in lieu of a screening wall along the north property line. The PUD requires paving of all internal circulation to mitigate dust.

The proposed PUD would allow GC General Commercial (GC) uses with the following prohibitions: manufactured/mobile homes, assisted living, group residence, auditorium, cemetery, community assembly, correctional placement residence, golf course, library, entertainment establishment, event center, farmers market, kennel, hobby and boarding/breeding/training, recreational marine facility, indoor and outdoor recreation and entertainment, rodeo, riding academy or stable, sexually oriented business in the city, tattooing and body piercing facility, teen club, vocational school, hospital, recycling collection stations, reverse vending machine, school (elementary, middle and high), car wash, convenience stores, night club, pawn shop, service stations, tavern and drinking establishments, vehicle repair, adult entertainment, recycling processing, second hand store, microbrewery, self-service warehouse, RV campground, outdoor vehicle sales, manufacturing (limited and general), vehicle storage yard, warehousing, and welding or machine shop. No hotels or motels are permitted on the west 300 feet. Any use requiring a conditional use in GC zoning requires a PUD amendment. The land use differences between this PUD and the existing CUP are: outdoor equipment rental and sales, contractor sales and services (to include associated outdoor storage), retail, restaurants, animal care and banking.

Property north of the site, across the floodway and landscape buffer, is zoned SF-5 Single-family Residential (SF-5) and developed with single-family residences. South of the site is US-54, further south is an SF-5 zoned neighborhood to the southwest, and an unincorporated, SF-20 Single-family Residential (SF-20) zoned large-lot residence. East of the site is the LC zoned remainder of the undeveloped CUP, DP-226. West of the site is another unincorporated, SF-20 zoned large-lot residence.

**CASE HISTORY:** The property was rezoned to LC with DP-226 in 1997 and platted as a portion of the Belle Terre South Addition in 1997. Approval of this PUD would require re-platting the site.

**ADJACENT ZONING AND LAND USE:**

NORTH:	SF-5	Single-family residential, floodway reserve
SOUTH:	SF-20, SF-5	US-54, Single-family residential
EAST:	LC, DP-226	Undeveloped
WEST:	SF-20	Large lot residential

**PUBLIC SERVICES:** The site has frontage along the Kellogg Expressway. The PUD proposes complete access control except for one right-in right-out only access point east of Reserve L. All other utilities are available to the site. The PUD requires connection to public water and sewer for development.

**CONFORMANCE TO PLANS/POLICIES:** The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies this location on the 2035 *Wichita Future Growth Concept Map* as “Residential and Employment Mix.” The Locational Guidelines of the Comprehensive Plan encourage major commercial development in close proximity to highways. This application meets the Comprehensive Plan Land Use Compatibility and Design recommendations regarding screening, buffering, shared internal vehicular and pedestrian circulation, access controls, noise and lighting controls and aesthetic considerations. The Plan’s *Priority Enhancement Areas for Wichita Infrastructure Projects Map* identifies this portion of Kellogg as a “Wichita Primary Gateway,” and recommends considering the inclusion of site design features that increase the sense of quality of life through emphasis of visual character and aesthetic improvements.

**RECOMMENDATION:** Planning Staff worked with the agent for the applicant to modify this PUD request. Staff’s recommendation takes in consideration the existing CUP on the site and staff’s recommendation for similar requests and uses along Kellogg frontage. Staff notes that while this request is more intense than what was previously permitted under DP-226, highway frontage is where one would expect contractor sales and services and billboards. Staff feels that the extensive floodway landscape buffer, along with other PUD requirements, will protect surrounding residential areas and the Kellogg Expressway from negative impacts. Staff notes that the proposed off-site sign would not be allowed without this PUD, and the Sign Code prohibits use of off-site signs for on-site advertising. The PUD allows for other adequate on-site signage. Based on information available prior to the public hearing, staff recommends the request be **APPROVED** subject to the following conditions:

- A. The PUD is subject to re-platting to include: complete access control except for one right-in right-out only access point to US-54 located east of Reserve L, guarantee of acceleration and deceleration lane improvements, reconfiguration of Kellogg Drive to a frontage road with emergency access to the vacated portion of Kellogg Drive if required, dedications for the future Kellogg Expressway will be determined, and a drainage plan and associated guarantees will be required.
- B. The off-site sign shall be permitted for off-site advertising only; on-site advertising is prohibited per the Sign Code on the off-site sign.

- C. The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

- (1) The zoning, uses and character of the neighborhood: The site is located along the north side of US-54. Property north of the site, across the floodway and landscape buffer, is zoned SF-5 and developed with single-family residences. South of the site is US-54, further south is an SF-5 zoned neighborhood to the southwest, and an unincorporated, SF-20 zoned large-lot residence. East of the site is the LC zoned remainder of the undeveloped CUP, DP-226. West of the site is another unincorporated, SF-20 zoned large-lot residence.
- (2) The suitability of the subject property for the uses to which it has been restricted: The site could be developed under the current LC zoning and restrictions of DP-226 for a limited range of commercial uses. However, the site has been vacant as zoned for 11 years. The applicant's proposal for contractor sales and service, equipment rental and sales, and an off-site sign require an increase in zoning intensity and removal of CUP restrictions.
- (3) Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed PUD removes restrictions of off-site signs and the more intense commercial uses of contractor sales and services and equipment rental and sales. Given mitigating screening requirements and significant existing landscape buffering, removal of these restrictions should not impact surrounding property owners.
- (4) Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval of the request will add commercial development along US-54 where infrastructure exists. Vehicle traffic and activity on the site could negatively impact US-54; mitigating conditions are included in the PUD. Denial of this request would presumably be a loss of economic opportunity for the land owner.
- (5) Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The adopted Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies this location on the *2035 Wichita Future Growth Concept Map* as "Residential and Employment Mix." The Locational Guidelines of the Comprehensive Plan encourage major commercial development in close proximity to highways. This application meets the Comprehensive Plan Land Use Compatibility and Design recommendations regarding screening, buffering, shared internal vehicular and pedestrian circulation, access controls, noise and lighting controls and aesthetic considerations. The Plan's *Priority Enhancement Areas for Wichita Infrastructure Projects Map* identifies this portion of Kellogg as a "Wichita Primary Gateway," and recommends considering the inclusion of site design features that increase the sense of quality of life through emphasis of visual character and aesthetic improvements.



- (6) Impact of the proposed development on community facilities: The proposed development will increase traffic on and off this portion of US-54. Provided adequate acceleration and deceleration lanes and sufficient right-of-way for Kellogg Expressway expansion, community facilities should not be impacted.

**SCOTT KNEBEL**, Planning Staff presented the Staff Report. He referred to a handout which was a letter from Foulston Siefkin, LLP regarding moving the proposed off-site sign 300 feet to the east. He said this information will need to be discussed with the applicant as perhaps a revised condition for the case. In addition, he said surrounding neighbors also made the same request at the DAB meeting so the sign would be less visible to their homes. He concluded by stating that the application was approved by the DAB 4-2-1.

**RICHARDSON** clarified that without the proposed PUD the off-site sign would not be permitted by the Sign Code.

**KNEBEL** said that was correct; the off-site sign would not be allowed without a variance or PUD.

**RICHARDSON** said there is not a single billboard in that mile section on Kellogg. He said he was wondering why staff would approve something in direct opposition of the Sign Code.

**KNEBEL** said the mile between 159th and 143<sup>rd</sup> Streets is not fully developed in its zoning pattern. He said this is the zoning staff anticipates is going to occur over the next 20 year period. He said their opinion is that there likely will be some billboards approved. He said they believe the use along this area will intensify over the large lot uses and that frontage along Kellogg will become commercial properties in the long term. He said that is why they are suggesting that a billboard would be appropriate in this location.

**RICHARDSON** asked what conditions need to be in place for this to be approved by right.

**KNEBEL** said he didn't know off the top of his head, but said there was a distance requirement based on zoning and there are also limitations in terms of the number of billboards within a mile.

**DIRECTOR MILLER** said his understanding is that there is not enough commercial zoning within the mile length to allow a billboard.

**RICHARDSON** said his personal opinion is let's wait until there is enough commercial zoning. He asked about any restrictions on the display area.

**KNEBEL** said those restrictions are covered in the base zoning which is GC.

**KIRK MILLER, K.E. MILLER ENGINEERING, AGENT FOR APPLICANT** said the applicant is present to answer any specific questions. He said Absolute Natural Stone is the name of the company that was originally located on Kellogg by Dandals. He said they moved approximately one and one half years ago to a new location on east Kellogg because of the Kellogg expansion. He said they platted the property and added that KDOT was going to take some land on the back of the property. He said they also dedicated land and drainage reserve to

the City. He said KDOT redid the project and put a ramp right through the middle of the property so they have to move again. He said they would like to stay out on east Kellogg. He said this isn't a great parcel of land, it has floodplain and access issues. He said they need to work around that. He said they are fine with no on-site usage of the billboard sign. He said they would also be fine with moving the billboard 200-300 feet further east. He said location of the sign is something that will have to be worked out during the signage process because it has to be approved by both KDOT and the City.

**DENNIS** clarified that the applicant and agent are okay with the PUD as it is currently written and agree to move the sign 300 feet further east.

**K.E. MILLER** commented that they worked with staff on development of the PUD and are fine with it.

**RICHARDSON** asked if they knew how much land KDOT would be asking for right-of-way.

**K.E. MILLER** said he spoke with the KDOT Project Manager and he said they are looking at taking a sliver of land from the top of the bump out at the southwest corner of the property to the southeast corner of the property.

**ELLISON** clarified that the proposed use will be identical as the previous location with several hundred pallets of rocks in addition to selling sheds. He asked what the neighborhood thought of that.

**K.E. MILLER** said yes that will be the purpose. He said there is a large landscape buffer behind the location. He referred to the map of the area and pointed out the buffer all the way around the property of approximately 100 – 150 feet which will remain for landscaping and flood zone.

**ELLISON** asked about flood issues on the property.

**K.E. MILLER** said current Floodplain Maps don't show anything; however, the new Floodplain Maps show that work will need to be done on the east side of the property which will be located in the floodplain.

**BLAKE BASINGER, 15435 WINDHAM CIRCLE, REPRESENTING THE BELLE TERRE HOME OWNERS ASSOCIATION** said there have been a number of deaths at the corner of 159<sup>th</sup> Street and Kellogg. He said they are not happy about the sign light cycling every five seconds, noise from the diesels and dust blowing over into the neighborhood. He said they have approximately \$60 million dollars invested in the neighborhood and it has been peaceful and quiet for twenty years. He said the reason this is currently zoned LC was so that office buildings and medical offices could go in at the location. He said they are concerned that if Absolute Natural Stone goes out of business or moves what could go in there a rock crusher or even worse. He concluded by asking the Commission to please consider the damage this will do to the neighborhood.

**RICHARDSON** asked if he went to the DAB meeting on the item and if he had looked at the list of prohibited uses.

**BASINGER** said he went to the DAB and several other neighbors were there also. He said DAB recommended approval 4-2. He said uses were discussed at the meeting and the police officer indicated it is almost impossible to site someone under the noise ordinance. He said the applicant will be picking up boulders and putting them in steel trucks night and day.

**K.E. MILLER** commented that the traffic signal will help the neighborhood entrance because it will give breaks for cars that want to pull back out onto Kellogg. He said the applicant indicates that they average between 10-20 customers a day with an average sales of five invoices per day. He said the equipment rental business was about 2-3 times a day. He said the applicant would like to keep all the businesses he had at the old location.

**FOSTER** clarified that the applicant and agent are comfortable with the list of prohibited uses.

**K.E. MILLER** responded yes.

**ELLISON** clarified so at the previous location there were no buffering requirements. He asked what the applicant would do to buffer this location.

**KNEBEL** replied that there were no buffering requirements at the previous location because it had the highway in front of it and it was surrounded by commercially zoned property. He added that there are many options to meet the screening requirements on the north side of the property such as berms, landscaping, building a fence or wall or a combination of all of those.

**MOTION:** To approve subject to staff recommendation as amended to move the sign a minimum of 600 feet to the east.

**WARREN** moved, **DOOL** seconded the motion, and it carried (9-2). **ELLISON** and **RICHARDSON** – No.

**FOSTER** clarified that this was limited to a single billboard on this site.

**KNEBEL** said yes, item B. states one offsite sign will be allowed.

**MCKAY** said he is uncomfortable saying 300 feet or 600 feet because there are two waterways in this area. He suggested stating approximately.

**DIRECTOR MILLER** suggested stating a minimum of 600 feet and if they need to go further east they can. He said he believes that is what the motion maker meant.

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**INTEROFFICE  
MEMORANDUM**

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**TO:** MAPC  
**FROM:** Laura Rainwater  
**SUBJECT:** PUD2016-01  
**DATE:** March 15, 2016

**Scott Knebel, Metropolitan Area Planning Department**, presented a request to DAB II on Monday, March 14, 2016, for a Planned Unit Development (PUD) to allow GC General Commercial uses with restrictions and an off-site billboard sign, generally located north of E. Kellogg and 1/2 mile east of 143<sup>rd</sup> Street East. In addition to rezoning, the PUD would remove this site from the existing CUP DP-226 and associated restrictions.

In attendance were **Nazir Jesri**, applicant, **Kirk Miller** (agent) KE Miller Engineering P.A., and the following homeowners from the adjacent Belle Terre neighborhood: **Sharon and Steve Brinks, Blake Baysinger, Francis and Judy Bias**.

After staff presentation, DAB members were most concerned about the buffer between the proposed business and the adjacent neighborhood to reduce the dust, noise and light pollution.

Members of the Belle Terre HOA addressed the Board in opposition of the change. Their concerns included:

- Size of equipment being used and stored on site.
- Size of building and location on parcel
- Hours of operation and time of deliveries will be made
- Pollution – Dust, noise and light (from electronic billboard)

**Becky Tuttle** made a motion to **APPROVE** the request with the following conditions:

- The PUD is subject to re-platting to include: complete access control except for one right-in right-out only access point to US-54 located east of Reserve L, guarantee of acceleration and deceleration lane improvements, reconfiguration of Kellogg Drive to a frontage road with emergency access to the vacated portion of Kellogg Drive if required, dedications for the future Kellogg Expressway will be determined, and a drainage plan and associated guarantees will be required.
- The off-site sign shall be permitted for off-site advertising only; on-site advertising is prohibited per the Sign Code on the off-site sign.
- The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

**Kelly Callen** seconded the motion. **Motion passed 4-2 (with 1 abstention).**

**City of Wichita  
City Council Meeting  
April 19, 2016**

**TO:** Wichita Airport Authority

**SUBJECT:** Federal Aviation Administration  
Lease No. DTFACN-12-L-00014, Supplemental Agreement No. 3  
1801 Airport Road – Wichita Dwight D. Eisenhower National Airport

**INITIATED BY:** Department of Airports

**AGENDA:** Wichita Airport Authority (Consent)

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**Recommendation:** Approve the Supplemental Agreement.

**Background:** Since 1991, the Federal Aviation Administration (FAA) has leased the Air Capital Office Complex building located at 1801 Airport Road on Wichita Dwight D. Eisenhower National Airport (Airport). The office complex houses the following divisions: Aircraft Certification Office (ACO), Aircraft Evaluation Group (AEG), Technical Operations (TO) and Flight Standards District Office (FSDO).

**Analysis:** In order to comply with FAA's regulations and standards, the tenant requested that the Wichita Airport Authority (WAA) make upgrades for additional power in the office complex storage room.

**Financial Considerations:** The FAA has agreed to reimburse the WAA for the tenant improvement in a lump sum payment of \$1,176. The necessary work for the electrical upgrades have been installed.

**Legal Considerations:** The Supplemental Agreement has been reviewed and approved as to form by the Law Department.

**Recommendations/Actions:** It is recommended that the Wichita Airport Authority approve the Supplemental Agreement and authorize the necessary signatures.

**Attachment:** Supplemental Agreement No. 3.

<b>U.S. Department of Transportation Federal Aviation Administration SUPPLEMENTAL LEASE AGREEMENT</b>	<b>SUPPLEMENTAL AGREEMENT NO. 3</b>	<b>DATE April 19, 2016</b>
	<b>TO LEASE NO. DTFACN-12-L-00014</b>	

ADDRESS OF PREMISES: Approximately 38,625 square feet of space located on the Wichita Dwight D. Eisenhower National Airport, more particularly described as 1801 Airport Road, Wichita, Kansas, 67209.

THIS AGREEMENT, made and entered into this date by and between the WICHITA AIRPORT AUTHORITY, whose address is 2173 Air Cargo Road, Wichita, Kansas, 67277, hereinafter called the LESSOR, and the UNITED STATES OF AMERICA, hereinafter called the GOVERNMENT:

WHEREAS, on September 27, 2011, the parties hereto entered into Lease No. DTFACN-12-L-00014, as amended by Supplemental Agreement No. 1 on November 29, 2012, and Supplemental Agreement No. 2 on October 1, 2015, for the consideration and purposes more particularly stated in said lease; and,

WHEREAS, the Government requests the installation of two 125-volt, 30-amp twist-lock power receptacles with associated breakers in the storage building; and,

WHEREAS, the Lessor agrees to perform said installation according to Government specifications for a total cost of \$1,176.00.

NOW THEREFORE, effective immediately, these parties for the considerations hereinafter mentioned covenant and agree that the said lease is amended, as follows:

The Government agrees to make a one-time, lump sum payment in the amount of \$1,176.00 within 30 days upon completion and acceptance of the work and receipt of a final, itemized invoice.

All other terms and conditions of the lease shall remain in force and effect.

Important: Lessor ☒ is, ☐ is not required to sign this document and return 2 copies to the issuing office.

### 2.6.13 Supplemental Lease Agreement (SLA)

April 2010

OMB Control No. 2120-0595

Pg. 1

IN WITNESS WHEREOF, the parties subscribed their names as of the above date.

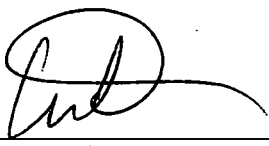
**LESSOR**

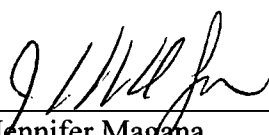
**ATTEST:**

**THE WICHITA AIRPORT AUTHORITY**

By: \_\_\_\_\_  
Karen Sublett, City Clerk

By: \_\_\_\_\_  
Jeff Longwell, President

By:  \_\_\_\_\_  
Victor D. White, Director of Airports

APPROVED AS TO FORM:  \_\_\_\_\_ Date: 4-6-10  
Jennifer Magana,  
City Attorney and Director of Law

**UNITED STATES OF AMERICA**

\_\_\_\_\_  
Jennifer W. Miller  
Real Estate Contracting Officer

Date: \_\_\_\_\_

**2.6.13 Supplemental Lease Agreement (SLA)**

April 2010

OMB Control No. 2120-0595

Pg. 2

## PUBLIC AUTHORIZATION CERTIFICATE

If agreement is made with a State, County, Municipality, or other public authority, the following certificate shall be executed by an authorized official:

I, \_\_\_\_\_ certify that I am the \_\_\_\_\_ *(title)*  
of the Wichita Airport Authority named in the foregoing agreement; and that  
\_\_\_\_\_ who signed said agreement on behalf of the Wichita Airport  
Authority was then \_\_\_\_\_ *(title)* of the Wichita Airport Authority;  
that said agreement was duly signed for and on behalf of the Wichita Airport Authority by  
authority of its governing body, and is within the scope of its powers.

Signed \_\_\_\_\_

Seal of Authority



**City of Wichita  
City Council Meeting  
April 19, 2016**

**TO:** Wichita Airport Authority

**SUBJECT:** Midwest Corporate Aviation, Inc. Assignment of Lease  
Colonel James Jabara Airport

**INITIATED BY:** Department of Airports

**AGENDA:** Wichita Airport Authority (Consent)

---

**Recommendation:** Approve Midwest Corporate Aviation, Inc. Lease Assignment.

**Background:** The Wichita Airport Authority (WAA) entered into a lease of real estate at Colonel James Jabara Airport (Jabara) with Midwest Corporate Aviation, Inc. (MCA) on December 22, 2015, in order to consolidate multiple agreements into one Fixed-Base Operation Services Agreement. MCA desires to assign its leasehold rights to INTRUST Bank, N.A. as security for project financing.

**Analysis:** Federal grant assurances and federal regulations generally restrict transfer to third parties of any interest in real estate included in the Airport Layout Plan, and require tenant business entities to be engaged in or operate in support of aeronautical activities. However, this type of assignment of leasehold interest (sometimes referred to as a mortgage of leasehold interest) is anticipated and expressly permitted by Federal Aviation Administration regulations. This financing opportunity is specifically approved as a standard provision in WAA lease documents.

**Financial Considerations:** This assignment is revenue and expenditure neutral to the WAA. Any exercise of this assignment would require INTRUST Bank, N.A. to undertake the scheduled lease payments owed by MCA.

**Legal Considerations:** This approval process exercises a right reserved to MCA in the underlying lease. The above assignment has been negotiated by and is approved by the Law Department.

**Recommendations/Actions:** It is recommended that the WAA approve the MCA Lease Assignment to INTRUST Bank, N.A.

**Attachments:** Midwest Corporate Aviation, Inc., LLC/INTRUST Bank, N.A. Lease Assignment.

## COLLATERAL ASSIGNMENT OF LEASE

THIS COLLATERAL ASSIGNMENT OF LEASE (this "Assignment") is entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2016, by and between Midwest Corporate Aviation, Inc., a Kansas corporation, and INTRUST Bank, N.A., a national banking association ("Assignee").

WITNESSETH

WHEREAS, The Wichita Airport Authority, Wichita, Kansas ("Lessor"), and Midwest Corporate Aviation, Inc., a Kansas corporation ("Lessee"), entered into that certain Use and Lease Agreement dated **December 22, 2015**, as may be amended, incorporated herein by reference (the "Lease"), covering certain aircraft hangar operation facilities and aircraft fixed operation facilities located at Wichita Colonel James Jabara Airport, Wichita, Kansas, further described on Exhibit "A" attached hereto and incorporated by reference, and any and all improvements now or hereafter located thereon (such land and improvements being herein referred to collectively as the "Subject Property"); and

WHEREAS, Assignee, as Lender, has agreed to make a loan to Lessee, as Borrower (the "Loan"), evidenced by a promissory note (the "Note") and other related loan documents of even date herewith (collectively, the "Loan Documents"); and

WHEREAS, to secure the Loan, Lessee has agreed to assign to Assignee, and Assignee has agreed to take from Lessee, an assignment of the Lease for collateral purposes, on the terms and conditions set forth herein,

NOW, THEREFORE, the parties hereto agree as follows:

1. Assignment. Lessee, in consideration of the Loan and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does hereby absolutely and unconditionally GRANT, CONVEY, ASSIGN, TRANSFER, and SET OVER unto Assignee all rights, interests and estates of Lessee in, to and under the Lease, together with all renewals and extensions of the Lease and other agreements and all other leases or agreements that may hereafter be entered into which cover all or any portion of the Subject Property. This is a present transfer to such lender of all of Lessee's rights to collect and receive rents and charges from approved users, operators, sublessees and permittees.

2. Representations and Warranties of Lessee. Lessee hereby represents and warrants to Assignee that:

(a) Lessee has the right to assign the Lease and the Rents hereby assigned and no other person or entity has any right, title or interest therein, subject to the provisions of Section 16 below, Federal Aviation Administration regulations, and airport grant assurances;

(b) Lessee has performed and will duly and punctually perform all of the terms, covenants, conditions and warranties of the Lease;

(c) Lessee has not at any time prior to the date hereof exercised any right to subordinate any Lease to any deed of trust or mortgage or any other encumbrance of any kind;

(d) Lessee has not executed any prior assignments of the Lease or the Rents;

(e) Lessee has performed no act or executed any other instrument which might prevent Assignee from enjoying and exercising any of its rights and privileges evidenced hereby;

(f) The Lease is valid and subsisting and in full force and effect and unmodified;

(g) There are no rent receipts owed to Lessee under the Lease with Lessor; and

(h) There are no defaults now existing under the Lease and no event has occurred which with the passage of time or the giving of notice, or both, would constitute such a default.

3. Limitation of Assignee's Liability. Assignee shall not be obligated to perform or discharge any obligation, duty or liability under the Lease by reason of this Assignment or the exercise of rights or remedies hereunder. Lessee shall and does hereby agree to indemnify, defend and hold Assignee harmless from and against any and all liability, loss or damage incurred under the Lease by reason of this Assignment or the exercise of rights or remedies hereunder, and from any and all claims and demands whatsoever that may be asserted against Assignee by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in the Lease. Should Assignee incur any such liability under the Lease by reason of this Assignment or the exercise of rights or remedies hereunder, or in defense of any such claims or demands, the amount thereof, including costs, expenses and reasonable attorney fees, shall be secured hereby and Lessee shall reimburse Assignee therefor immediately upon demand, failing which Assignee may, at its option, declare all indebtedness secured hereby and by the Loan Documents to be immediately due and payable. This Assignment shall not operate to place responsibility upon Assignee for the control, care, management or repair of the Subject Property, nor for the carrying out of any of the terms and conditions of the Lease; nor shall it operate to make Assignee responsible or liable for any waste committed on the Subject Property or for any dangerous or defective condition of the Subject Property, or for any negligence in the management, upkeep, repair, or control of the Subject Property resulting in loss or injury or death to any tenant, licensee, employee, or stranger.

4. Assignee's Remedies. This Assignment is primary in nature to the obligation evidenced and secured by the Loan, the Loan Documents and any other document given to secure and collateralize the indebtedness secured by the Loan Documents. Lessee agrees that Assignee may enforce this Assignment without first resorting to or exhausting any other security or collateral; provided, however, that nothing herein contained shall prevent Assignee from suing on the Loan, foreclosing the Loan Documents or exercising any other right under any document securing the payment of the Loan.

5. No Waiver. Nothing contained herein and no act done or omitted by Assignee pursuant to the powers and rights granted hereunder shall be deemed to be a waiver by Assignee of its rights and remedies under the Loan Documents or a waiver or curing of any default hereunder or under the Loan Documents, and this Assignment is made and accepted without prejudice to any of the rights and remedies possessed by Assignee under the terms of the Loan Documents. The right of Assignee to collect the interest and indebtedness evidenced by the Loan Documents and to enforce any other security therefor held by it may be exercised by Assignee either prior to, simultaneously with, or subsequent to any action taken by it hereunder.

6. Term of Assignment. If the Loan and all other indebtedness secured hereby and by the Loan Documents are paid as the same become due and payable and if all of the covenants, warranties, undertakings and agreements made in the Loan Documents and in this Assignment are kept and performed, this Assignment shall become null and void and of no further force and effect but the affidavit, certificate, letter or statement of any officer, agent or attorney of Assignee showing any portion of the Loan or such other indebtedness to remain unpaid or any of such covenants, warranties, undertakings and agreements not to be kept or performed shall be and constitute conclusive evidence of the validity, effectiveness and continuing force of this Assignment and any person may, and is hereby authorized to, rely thereon.

7. Additional Rights of Assignee.

(a) Assignee may take or release other security for the payment of the Loan and other indebtedness secured by the Loan Documents, may release any party primarily or secondarily liable therefor and may apply any other security held by it to the satisfaction of the Loan and such other indebtedness without prejudice to any of its rights under this Assignment.

(b) Assignee may at any time and from time to time in writing: (i) waive compliance by Lessee with any covenant herein made by Lessee to the extent and in the manner specified in such writing; (ii) consent to Lessee doing any act that hereunder Lessee is prohibited from doing, or consent to Lessee failing to do any act which hereunder Lessee is required to do, to the extent and in the manner specified in such writing; or (iii) release any portion of the Subject Property and/or the Lease, or any interest therein, from this Assignment. No such act shall in any way impair the rights of Assignee hereunder except to the extent specifically agreed to by Assignee in such writing.

(c) The rights and remedies of Assignee hereunder shall not be impaired by any indulgence, including, but not limited to, (i) any renewal, extension, or modification that Assignee may grant with respect to any indebtedness secured hereby; (ii) any surrender, compromise, release, renewal, extension, exchange, or substitution that Assignee may grant in respect of any item of the Subject Property and/or the Lease or any part thereof or any interest therein; or (iii) any release or indulgence granted to any endorser, guarantor or surety of any indebtedness secured hereby.

8. Severability. A determination that any provision of this Assignment is unenforceable or invalid shall not affect the enforceability or validity of any other provision and

any determination that the application of any provision of this Assignment to any person or circumstance is illegal or unenforceable shall not affect the enforceability or validity of such provision as it may apply to any other persons or circumstances.

9. No Merger. Notwithstanding (a) the fact that any Lease or the leasehold estate created thereby may be held, directly or indirectly, by or for the account of any person or entity that shall have an interest in the fee estate of the Subject Property; (b) the operation of law; or (c) any other event, the lessee's leasehold estate under such Lease shall not merge into the fee estate and the lessee shall remain obligated under such Lease as assigned by this Assignment.

10. Binding. The terms, provisions, representations, and warranties herein contained shall inure to the benefit of, and bind, the parties hereto and their respective heirs, representatives, successors and assigns, all Lessor approved subtenants and assigns of this Lease, and subsequent holders of the Loan Documents. All references in this Assignment to Lessee or Assignee shall be deemed to include all such heirs, representatives, successors and assigns of such respective party.

11. Additional Documentation. Lessee agrees to and shall promptly execute or cause to be executed and deliver to Assignee a specific assignment of each and every lease hereafter executed and covering all or a portion of the Subject Property, such specific assignment to be in the form of this Assignment.

12. Construction. Within this Assignment, words of any gender shall be held and construed to include any other gender, and words in the singular number shall be held and construed to include the plural, unless the context otherwise requires. The provisions of this Assignment are intended to supplement the provisions contained in the Loan Documents. In the event of any conflict between the terms of this Assignment and the terms of the Loan Documents, the terms of this Assignment shall prevail insofar as the Lease is concerned, but the terms of the Loan Documents shall prevail in all other respects.

13. Counterparts. This Assignment may be executed in any number of counterparts with the same effect as if all parties hereto had signed the same document. All such counterparts shall be construed together and shall constitute one instrument.

14. No Third Party Beneficiaries. It is expressly agreed by the parties hereto that this Assignment shall not be construed or deemed made for the benefit of any third party or parties.


15. Entire Agreement. This Assignment and the Loan Documents contain the entire agreement concerning the assignment of the Lease between the parties hereto. No variations, modifications or changes herein or hereof shall be binding upon any party hereto, unless set forth in a document duly executed by both parties.

16. Use of Subject Property. The parties agree that the Subject Property will be used only for aeronautical purposes, and that further assignment or subletting shall be subject to the prior written consent of Lessor, which shall not be unreasonably denied.

THIS ASSIGNMENT, THE LOAN DOCUMENTS AND OTHER WRITTEN DOCUMENTS EXECUTED CONTEMPORANEOUSLY HERewith REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

IN WITNESS WHEREOF, the parties hereto have executed this Assignment as of the date first written above.

**Midwest Corporate Aviation, Inc.**

By:   
Marvin E. Autry, President

**INTRUST Bank, N.A.**

By:   
Marlon E. King, Senior Commercial  
Relationship Manager

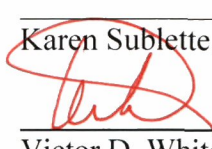
**LESSOR'S CONSENT**

The undersigned, being the Lessor under the Lease described above, does hereby consent to the terms and conditions of the foregoing Assignment. Further, Lessor covenants to Assignee that Lessor shall give notice to Assignee when and as given to Lessee for any event of default by Lessee under the Lease, and Assignee, at its option, shall have the right to correct any condition or to cure any default. Nothing in this instrument shall relieve Lessee of its obligations under the Lease. This Consent is given as of the date first written above.

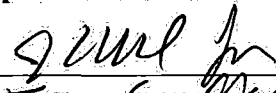
**LESSOR:**  
**The Wichita Airport Authority**

By: \_\_\_\_\_  
Jeff Longwell, President

**Attest:**

\_\_\_\_\_  
Karen Sublette, City Clerk  
  
Victor D. White, Director of Airports

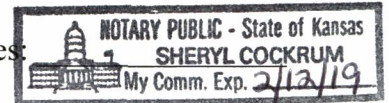
Approved as to form:

  
\_\_\_\_\_  
Jennifer Magana  
Director of Law

STATE OF KANSAS )  
COUNTY OF SEDGWICK )

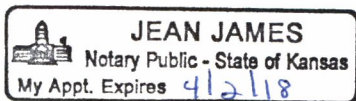
The foregoing Assignment was duly acknowledged before me by Marvin E. Autry, President of Midwest Corporate Aviation, Inc., a Kansas corporation, on the 30 day of March, 2016.

Sheryl Cockrum  
Notary Public  
My commission expires:



STATE OF KANSAS )  
COUNTY OF SEDGWICK )

The foregoing Assignment was duly acknowledged before me by Marlon E. King, Senior Commercial Relationship Manager of INTRUST Bank, N.A., a national banking association, on the 31<sup>st</sup> day of March, 2016.



Jean James  
Notary Public  
My commission expires: 4/2/18

STATE OF KANSAS )  
COUNTY OF SEDGWICK )

The foregoing Assignment was duly acknowledged before me by Jeff Longwell, as President of The Wichita Airport Authority, Wichita, Kansas, a Kansas municipal corporation, on the \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_



**EXHIBIT A**  
**(Legal Description)**



# **WICHITA AIRPORT AUTHORITY**

## **USE AND LEASE AGREEMENT**

**By and Between**

**WICHITA AIRPORT AUTHORITY  
Wichita, Kansas**

**and**

**MIDWEST CORPORATE AVIATION, INC.**

**For**

**Fixed-Base Operation Services  
Colonel James Jabara Airport  
Wichita, Kansas**

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THIS USE AND LEASE AGREEMENT is entered into this December 22, 2015 between THE WICHITA AIRPORT AUTHORITY, Wichita, Kansas (LESSOR) and MIDWEST CORPORATE AVIATION, INC., Wichita, Kansas (LESSEE).

WHEREAS, LESSOR is a quasi-governmental entity authorized under the laws of the State of Kansas to own and operate one or more airports, with full, lawful power and authority to enter into binding legal instruments by and through its governing body; and

WHEREAS, LESSOR owns, operates, regulates, administers, and maintains the Colonel James Jabara Airport, Wichita, Kansas; and

WHEREAS, LESSEE desires to lease the parcels of Land and Facilities defined below (collectively "Premises") on the campus of Colonel James Jabara Airport ("Airport") from LESSOR under the terms and conditions set forth below in this Use and Lease Agreement ("Agreement").

NOW, THEREFORE, in consideration of the mutual promises and agreements herein set forth, LESSOR and LESSEE (the Parties) do hereby covenant and agree as follows:

## 1. PREMISES

LESSOR agrees to let to LESSEE, and LESSEE does hereby rent from LESSOR certain real property generally located at 3512 N. Webb Road, consisting more or less of 403,607 sq.ft. of surface land area ("Land"), and 125,138 sq.ft. of surface floor area within the offices and hangars (collectively, "Facilities") as shown on the attached **Exhibit "A"**. The Premises shall include the Land, and Facilities and improvements located on the Land.

The taking of possession of the Premises by LESSEE shall in itself constitute acknowledgement that the Premises are in good and tenantable condition, and LESSEE agrees to accept Premises in its presently existing condition, "as is," "where is," and that LESSOR shall not be obligated to make any improvements or modifications to the Premises.

The Parties agree that the surface square feet within the Land and Facilities of the Premises is to be verified by official survey at the LESSOR's sole expense within not more than ninety (90) calendar days after Agreement commencement, and that this Agreement will be amended to revise/modify the Premises through Supplemental Agreement No. 1 if the survey results in a

variation of the size of Land and/or Facilities from that contained in the Agreement. The related impact on the rent amount, if any, will be effective upon the first day of the month following the date of written notification from LESSOR to LESSEE.

During the Term of this Agreement, and as development may warrant, but not more frequently than five (5) year increments, LESSOR may re-measure by certified survey various areas within and around the Premises, in an effort to more accurately reflect improvements, additions and modifications. In the event the square footage of the Premises identified herein differs from the Premises square footage determined by such survey, the parties agree to enter into an amendment to this Agreement to modify the Premises description to reflect the actual square footage of the Premises subject to the provisions of this Agreement. If the actual square footage of the Premises is determined by a surveyor certified in the State of Kansas, to differ from the square footage of the defined Premises, the current fees and charges shall be re-calculated. Thereafter, LESSEE's monthly fees and charges shall be based upon the re-measured and recalculated square footage. Except as explicitly contained in this Section, the parties agree that any increase or decrease in the monthly fees and charges payable resulting from re-measurement of the Premises shall not be applied retroactively. The related impact on the rent amount, if any, will be effective upon the first day of the month following the date of written notification from LESSOR to LESSEE. The Director may execute an amendment to this Agreement on behalf of LESSOR to reflect the adjusted Premises Exhibit and monthly fees and charges.

## **2. TRIPLE NET LEASE**

The Parties agree that this is a triple net lease and that, unless otherwise agreed to in this Agreement or by amendment or supplement thereto, the LESSEE is solely responsible for all obligations normally imposed on the Premises to the extent provided herein, including but not limited to janitorial services, utilities, taxes, insurance, maintenance and repairs and any other expenses and costs that arise from the use, operation and administration of the Premises.

## **3. TERM**

The term of this Agreement shall commence 12:00 a.m. on **January 1, 2016** and shall continue for a period of twenty (20) years ("Term"), with the Term expiring at 11:59 p.m. on **December 31, 2035**, unless otherwise terminated under provisions agreed to herein.

#### 4. LAND RENT

Upon Commencement of this Agreement, LESSEE shall pay to LESSOR land rental for the Premises described in this Section. The basic land rent shall be calculated as follows:

LAND RENT					
403,607 Sq. Ft.					
Years			Rate Per Sq. Ft.	Annual	Monthly
01/01/2016	-	12/31/2020	.1484	59,895.24	4,991.27
01/01/2021	-	12/31/2025	.1529	61,711.56	5,142.63
01/01/2026	-	12/31/2030	.1575	63,568.08	5,297.34
01/01/2031	-	12/31/2035	.1622	65,465.04	5,455.42

#### 5. FACILITIES RENT

LESSEE shall pay to LESSOR facility rental for the Premises described in this Section. The facility rental shall be calculated as follows:

FACILITY RENT					
FBO Terminal					
9,218 Sq. Ft.					
Years			Rate Per Sq. Ft.	Annual	Monthly
01/01/2016	-	12/31/2020	3.00	27,654.00	2,304.50
01/01/2021	-	12/31/2025	3.09	28,483.68	2,373.64
01/01/2026	-	12/31/2030	3.18	29,313.24	2,442.77
01/01/2031	-	12/31/2035	3.28	30,235.08	2,519.59

FACILITY RENT					
Hangars 1, 2, 3, 5, 6, 7					
70,000 Sq. Ft.					
Years			Rate Per Sq. Ft.	Annual	Monthly
01/01/2016	-	12/31/2020	2.00	140,000.04	11,666.67
01/01/2021	-	12/31/2025	2.06	144,200.04	12,016.67
01/01/2026	-	12/31/2030	2.12	148,400.04	12,366.67
01/01/2031	-	12/31/2035	2.18	152,600.04	12,716.67

FACILITY RENT					
Hangar 4					
12,000 Sq. Ft.					
Years			Rate Per Sq. Ft.	Annual	Monthly
01/01/2016	-	12/31/2020	1.00	12,000.00	1,000.00
01/01/2021	-	12/31/2025	1.03	12,360.00	1,030.00
01/01/2026	-	12/31/2030	1.06	12,720.00	1,060.00
01/01/2031	-	12/31/2035	1.09	13,080.00	1,090.00

FACILITY RENT					
Hangar 8					
15,000 Sq. Ft.					
Years			Rate Per Sq. Ft.	Annual	Monthly
01/01/2019	-	12/31/2020	2.00	30,000.00	2,500.00
01/01/2021	-	12/31/2025	2.06	30,900.00	2,575.00
01/01/2026	-	12/31/2030	2.12	31,800.00	2,650.00
01/01/2031	-	12/31/2035	2.18	32,700.00	2,725.00



<b>FACILITY RENT</b> Hangar 8 Addition 3,920 Sq. Ft.					
Years			Rate Per Sq. Ft.	Annual	Monthly
01/01/2031	-	12/31/2035	2.18	8,545.56	712.13

<b>FACILITY RENT</b> Hangar 9 15,000 Sq. Ft.					
Years			Rate Per Sq. Ft.	Annual	Monthly
11/01/2020	-	12/31/2020	2.00	-----	2,500.00
01/01/2021	-	12/31/2025	2.06	30,900.00	2,575.00
01/01/2026	-	12/31/2030	2.12	31,800.00	2,650.00
01/01/2031	-	12/31/2035	2.18	32,700.00	2,725.00

LESSEE shall pay all rent to LESSOR in advance on the first day of each month, without demand or invoicing for LESSEE's leased Premises as set forth herein.

## 6. OTHER FEES AND CHARGES

LESSOR may assess fees and charges to LESSEE according to rates established by LESSOR in LESSOR's SCHEDULE OF FEES AND CHARGES for the following categories. Such Schedule may be amended from time-to-time by action of the LESSOR upon a minimum of thirty (30) calendar days written notice. LESSOR's SCHEDULE OF FEES AND CHARGES shall uniformly apply, and be enforced, with regard to all tenants and operators of the same user groups on the Airport as defined by the SCHEDULES OF FEES AND CHARGES FOR THE WICHITA AIRPORT AUTHORITY.

Fuel Flowage Fees: LESSEE shall pay a fuel flowage fee established at \$0.08 per gallon, pursuant to the current Schedule of Fees and Charges, to LESSOR on fuel or propellant sold by LESSEE to aircraft operators from the Premises, other leased premises when invited by prime

lessee thereof, and upon the Aircraft Parking Ramp as shown on **Exhibit "B"** hereto. At LESSEE's sole discretion, LESSEE may charge/transfer/pass-through fuel flowage fees to customers equal to the fuel flowage fee imposed on LESSEE by LESSOR. LESSEE shall maintain and report accurate and complete records of fuel dispensed. LESSEE shall furnish to LESSOR for each calendar month a statement showing total fuel gallons by the fifteenth (15<sup>th</sup>) day of the month following each calendar month. LESSEE agrees to pay fuel flowage fees to LESSOR by the fifteenth (15<sup>th</sup>) day of the month following each calendar month of service. LESSOR shall have the right, at all reasonable times, to inspect and audit all records such as fuel dispensing logs, or other similar report. The LESSOR reserves for itself the right to charge by separate agreement any provider, either commercial, non-commercial, retailer, wholesaler, or for company or personal use, a fuel flowage fee for all fuels delivered to and dispensed on the Airport.

**Landing Fees:** LESSEE may be required by LESSOR to collect landing fees from aircraft operators operating from the leased Premises or from aircraft operators which are serviced or fueled by LESSEE on other locations on the Airport, and remit said landing fees monthly to the LESSOR. The LESSEE shall be permitted to retain twenty percent (20%) of such fees collected on behalf of the LESSOR, which amount shall be considered full and final payment by LESSOR for the cost of collecting and remitting the fees and charges. Accurate and complete records of customer aircraft landings, subject to the landing fees imposed by the LESSOR, will be kept, and the landing fees paid to LESSOR by the fifteenth (15<sup>th</sup>) of each month for the preceding calendar month. The LESSOR reserves for itself the right to charge landing fees hereafter established to any commercial operator operating to/from or upon the Airport.

**Freight Fees:** LESSEE may be required by LESSOR to collect freight fees from aircraft operators operating on the lease Premises or from aircraft operators which are serviced or fueled by LESSEE on other locations on the Airport, and remit said freight fees monthly to the LESSOR. The LESSEE shall be permitted to retain twenty percent (20%) of such fees collected on behalf of the LESSOR, which amount shall be considered full and final payment by LESSOR for the cost of collecting and remitting the fees and charges. Accurate and complete records of customer freight, subject to the fees imposed by the LESSOR, will be kept, and the freight charges paid to LESSOR by the fifteenth (15<sup>th</sup>) of each month for the preceding calendar month. The LESSOR reserves for itself the right to charge freight fees to any commercial operator operating to/from or upon the Airport.

At any time LESSEE is engaged in performing services, fueling or handling, LESSEE shall be responsible to LESSOR for collecting and reporting fees as defined in this Section.

Other Miscellaneous Fees and Charges: Any amounts due LESSOR from LESSEE for utility, maintenance, reimbursements, or other special charges will be paid by LESSEE within thirty (30) calendar days of the date of the invoice.

## **7. PAYMENT PROCEDURE**

LESSEE shall pay to LESSOR all rents and fees by the due dates set forth in this Agreement. In the event LESSEE fails to make payment within prescribed due dates as set forth in this Agreement, and after LESSOR has provided LESSEE with written notice and LESSEE does not make payment within seven (7) calendar days after the date said notice is given, then LESSOR, may charge LESSEE a monthly service charge of twelve percent (12%) on an annual basis for any such overdue amount, unless a lesser sum is set as the maximum allowable under state statutes on any such overdue amount, plus reasonable attorneys' and administrative fees incurred calendar by LESSOR in attempting to obtain payment. If LESSOR does not receive payment within seven (7) calendar days of the date of receipt of said written notice, then the monthly service charge shall retroactively commence on the date the payment was originally due.

LESSEE shall make all payments to the Wichita Airport Authority and in a form acceptable to LESSOR. ACH direct deposit is preferred. Bank account and routing information is available upon request. Payments made by check shall be delivered or mailed to:

Wichita Airport Authority  
2173 Air Cargo Road  
Wichita, Kansas 67209

or such other address or representative as designated in writing.

Bills, notices and invoices may be delivered to the LESSEE by mail or personal delivery at:

Midwest Corporate Aviation, Inc.  
Attn: Bob Karlake  
3512 N. Webb Road  
Wichita, Kansas 67226

or such other address or representative as designated in writing.

## 8. LESSEE'S IDENTITY

LESSEE must be a natural person or a corporation, partnership, limited liability company, joint venture or other state franchised business entity.

## 9. COMMON ACCESS AND USE

LESSEE recognizes that other tenants now and hereafter may occupy other portions of the Airport, and that such other tenants shall have the right to use public roadways, streets, aircraft parking ramps, taxiways, runways, access gates, lighting, beacons, navigational aids, or other conveniences for aeronautical operations, and these common facilities are not under an exclusive use lease; and LESSEE shall conduct its operations in such a manner as to not impede access by others to these common facilities, nor in any other way interfere with, nor disrupt the business of other tenants or the quiet enjoyment of their leasehold interests at the Airport. LESSEE recognizes that this right of quiet enjoyment and unimpeded access extends to all tenants equally. LESSEE has no rights to overhang or otherwise invade by equipment, improvements, or any part of an aircraft the vertical limits of the leasehold Premises, or the leased premises of any other tenant or the vertical areas there above commencing at the property lease line and all areas therein. The sole exception to this provision shall be for the navigational easement, described in the Airspace and Easement for Flight provisions of Section 52, General Provisions, granted to airborne aircraft.

LESSOR reserves the right to grant and/or permit other parties the right to use any portion of the Airport, except that described in Section 1, for any permitted purpose, and upon any fair and non-discriminatory terms established by the LESSOR.

LESSEE, its affiliated entities, subsidiaries, employees, agents, representatives, contractors, and subcontractors, will not transact or otherwise engage in any other activities, business, and/or services on or from the Premises, except as permitted in this Agreement, unless such is provided for by a separate written approval, or amendment to this Agreement, and subject to approval by LESSOR.

## 10. REQUIRED COMMERCIAL AERONAUTICAL USE

LESSEE shall be required to engage in commercial activities for aviation purposes or purposes incidental or related thereto for fixed-base operation (FBO) services, and the support and administration thereof or incidental thereto.

Commercial aeronautical activities and services required under this Agreement shall include provision of the following:

(a) Fueling. Dispensing of Jet-A and 100 octane aviation grade gasoline (avgas) from mobile fuel tenders for dispensing fuel at aircraft parking and tie-down locations. Fuel storing, handling and dispensing shall meet or exceed the requirements of all federal, state and local regulations, laws and/or codes, including but not limited to National Fire Protection Association (NFPA) 407 – Standard for Aircraft Fuel Servicing, NFPA 30 – Flammable and Combustible Liquids, Airport Rules and Regulations, and Airport Standard Operating Procedures as currently adopted or as may be amended, or any such successor or otherwise applicable regulations.

(b) Line Service. Line service personnel and vehicles as appropriate; aircraft parking ramp/tie-down parking assistance; aircraft “pull-out” and return-to-hangar/parking services; mobile forced air engine preheat; lavatory service; potable water service; mobile ground power assistance with a minimum of 14/28 volt, 2,000 ampere surge capacity; aviation grade oxygen refill supply; a range of turbine and piston engine lubricants; nitrogen tire and emergency system servicing; aircraft towing services utilizing motor driven draw bar vehicles capable of moving aircraft weighing up to 92,000 pounds; cabin cleaning services; windshield/windscreen cleaning services; and catering services.

(c) Customer Support. Customer support/ service personnel as appropriate; upon request, complimentary coffee, ice and newspapers to flight crews for aircraft cabin stock; pilot flight planning facilities properly equipped with desks and chairs and containing appropriate wall charts and maps; and computer weather monitoring and flight planning; a convenient, comfortably furnished public waiting area, with adjoining restroom facilities; pilot/customer vending area with availability of both hot and cold beverages and prepackaged snacks; retail sales counter adequately stocked with current charts, flight planning aids and miscellaneous small flight aid and comfort accessories; a courtesy vehicle to provide transportation between the FBO and reasonable nearby destinations; car rental reservations assistance; hotel accommodation reservations assistance; accept no less than two (2) national banking/credit and/or oil company credit cards for fueling; line and related services.

(d) Hangar Storage. Clear-span/open bay "community" hangar storage.

(e) Disabled Aircraft Assistance. Notify the Airport Police and Fire Division of the Wichita Airport Authority immediately upon observing or learning of any disabled aircraft blocking, impeding, hindering or obstructing the taxiing, takeoff or landing of aircraft on runways, taxiways or ramps. Render assistance and support on behalf of the aircraft owner/operator or insurer to recover and remove disabled aircraft, and if necessary, contact a third party on behalf of the aircraft owner/operator or insurer to recover and remove such disabled aircraft so that normal airport operations may be safely resumed as soon as possible. The LESSEE's assistance and support, whether directly or through a third party, shall not conflict with, impair the duties, or be contrary to the guidelines, directives or instructions of any federal, state or local agency with jurisdictional authority.

(f) Maintenance Service. LESSEE shall be certified as an FAA authorized Repair Station under FAR Part 145, at a minimum, within the below categories on the Repair Station Certificate:

- i. Major Aircraft Maintenance (as defined in FAR Part 43) on airframes, power plants and aircraft systems up to Group II turboprop and turbojet;
- ii. Aircraft Line Maintenance (as defined in FAR Part 43) for aircraft up to Group III turbojet aircraft not exceeding 100,000 pounds maximum takeoff weight.

LESSEE may provide these repair and maintenance services as follows: through an FAA certificated repair station on the Premises, or through licensed company employee airframe and power plant mechanics operating on the Premises, or by contracting with other authorized businesses meeting the requirements of Section 29, Subleasing, Permitting and Contracting.

At a minimum, LESSEE shall operate or contract for the operation, of an authorized and FAA certificated repair station on the leased Premises with ratings as follows: airframe Class 3, without limitation; power plant Limited Class 3 rating that permits removal or installation of accessories and components, adjustments, minor repair and minor alterations on all airframe Class 3 aircraft. Certifications and licensing required hereunder shall be in accordance with 14 CFR Part 145, as may be amended, or any such successor or otherwise applicable regulations.

LESSEE's rights and obligations to perform commercial aeronautical activities may be performed by one or more of LESSEE's sublessee(s), permittee(s), or contractor(s), which may be subject to LESSOR's prior written approval if so required by Section 29, Subleasing, Permitting and Contracting, which are competent to provide such services, and shall be subject to all applicable terms and conditions of this Agreement.

## 11. PERMITTED COMMERCIAL AERONAUTICAL USE

In addition to the required commercial aeronautical use to be provided by LESSEE above, LESSEE is permitted, but not required, to provide the following commercial aeronautical uses and engage in the following activities, which may be provided through one or more sub lessee(s), permittee(s), or contractor(s):

(a) Airline Ramp Services. "Into-plane" or "up-lift" delivery of fuel, lubricants and other related aviation products, loading and unloading of passengers, baggage, mail, freight, and providing ramp equipment and ground support.

(b) Fixed "Self-Service" Fueling. Dispensing of 100 octane aviation grade gasoline (avgas) through a fixed "self-service" fuel dispensing system. Shall be in addition to, and not a substitute for mobile fuel tenders. Fuel storing, handling and dispensing shall meet or exceed the requirements of all federal, state and local regulations, laws and/or codes or any such successor or otherwise applicable regulations.

(c) Deicing/anti-icing. May provide aircraft deicing and/or anti-icing services by application of appropriate and certified chemicals intended for such explicit purposes.

(d) Dealership. Maintain a national or regional airframe dealership, and may provide both new and pre-owned aircraft sales as part of an airframe dealership obligation. May maintain one or more national or regional dealerships in aircraft engines, accessories, instruments or avionics.

(e) Aircraft Sales. Purchase, sale, exchange and brokerage of new and/or pre-owned aircraft.

(f) Special Flight Services. May provide aerial sightseeing, and/or aerial photography or mapping.

(g) Flight Instruction. May provide primary and/or advanced flight and ground instruction under Title 14 CFR FAR Part 61, 141, or 142, as currently adopted or as may be amended, or any such successor or otherwise applicable regulations.

(h) Contract Pilot Services. Provision of professional "contract pilot" services.

(i) Aircraft Charters and Air Ambulance. May provide "on-demand" or scheduled charter and/or air ambulance services under 14 CFR Part 135, as may be amended, or any such successor or otherwise applicable regulations.

(j) Specialized Repair Services. Sales, installation, service, repair, overhaul, refurbish, and exchange of new and used aircraft radios, instruments, propellers, power plants, parts and accessories, aircraft painting, and interior installation and repair.



(k) Flying Clubs. Own, support, sponsor, manage and/or maintain local based flying club or clubs for the purpose of aircraft rental and/or flight training to cooperative/club members.

(l) Aircraft Rental, Leasing and Management. May provide aircraft rental, leasing and/or aircraft management services.

(m) Property Rental. Office, administrative, storage, or retail space rental on the Premises to third parties for aeronautical related activities and purposes only.

(n) Advertising. Advertising may be permitted on the Premises with prior written approval of the LESSOR, and in accordance with Section 39, Exterior Signs and Advertising.

## **12. AIRCRAFT SELF-SERVICES NOT PROHIBITED**

It is understood and agreed by LESSEE that no right or privilege has been granted which would prevent any person, firm or corporation operating aircraft on the Airport from performing any services on its own aircraft with its own regular employees (including, but not limited to, self-fueling, maintenance and repair) that it may choose to perform. Services that are performed by persons other than an owner and/or operator or employees thereof (non-owners/operators, and non-employees) for compensation or other consideration are deemed to be commercial aeronautical activities and may only be provided by persons and/or companies authorized by the Wichita Airport Authority to conduct such commercial business at the Airport. Any person, firm or corporation, shall however, whether defined as self-service or commercial, comply with all federal, state and local codes, regulations, and statutes which apply to such service or activity.

## **13. PROHIBITED USE OF PREMISES**

The Premises shall not be used for any purpose not expressly required in Section 10, Required Commercial Aeronautical Use of Premises, and Section 11, Permitted Commercial Aeronautical Use of Premises. The following operations, services, or concessions shall be specifically prohibited on or from the Premises or any other location at the Airport without the prior written consent of the LESSOR, and then only with provisions for payment of fees, charges, or percentage of gross sales as may be deemed reasonably appropriate by the LESSOR:



(a) Commercial catering, restaurant and/or lounge concessions, except as may be incidental to aviation purposes, customer support and convenience, or other courtesy/complimentary services, or commercial vending operations on the Premises;

(b) Subleasing, permitting or contracting the Premises or portions thereof to any party not actively and professionally engaged in an aeronautical activity;

(c) Commercial (for hire) ground transportation;

(d) Commercial "paid" parking;

(e) Commercial hotel or lodging;

(f) Commercial outdoor advertising;

(g) Sale of non-aviation products and services;

(h) Revenue-producing communication systems or systems not directly applicable to LESSEE's operations on the Premises;

(i) Automobile rental business or franchise; however, LESSOR shall not object to LESSEE subleasing to a nationally recognized rental car company to service LESSEE's aeronautical customers, or to LESSEE serving as agent or representative for a rental car company for the same purpose, subject to the requirements of Section 29, Subleasing, Permitting and Contracting. Regardless of the business relationship, LESSEE shall promptly report to LESSOR all such business affiliations with rental car companies conducting business to/from and upon the Premises.

(j) Storage and/or maintenance of any auto, truck, trailer, camper, boat, jet ski, motor cycle, recreational vehicle or other non-aviation or non-aircraft service and support vehicle or equipment; provided, the parking of customers' automobiles and trucks while the customers are traveling is not prohibited;

(k) Any activity reasonably considered by LESSOR not to be aviation purposes or purposes incidental or related thereto in support of FBO services, and the support and administration thereof.

#### 14. AIRCRAFT PARKING RAMP USE

The aircraft parking ramp and tie-down areas adjoining the Premises but are not included within the LESSEE's leased Premises as shown on **Exhibit "B"** hereto (Adjoining Ramp and Tie-Downs). As a non-leased area within the Airport, the LESSEE shall have the non-exclusive right of use, ingress and egress in common with others, in such areas, for both vehicles and aircraft, for the benefit of its customers, agents, invitees, contractors, representatives and employees, to be exercised in a reasonable manner. This may include the right of ingress and egress for activities incidental or related to LESSEE's approved activities and operations, and for no other purposes.

except as may be approved in writing by LESSOR. LESSOR shall be responsible for maintenance, repair, snow and ice removal as defined in Section 36, Maintenance and Repair, and Section 37, Snow and Ice Removal, of this Agreement of such Adjoining Ramp and Tie-Downs.

The LESSEE may use the aircraft parking ramp to support its services to local based and transient customers as required under Section 10, Required Commercial Aeronautical Use of Premises, and may charge fair, reasonable, and non-discriminatory rates and charges for the provision of such services.

The LESSEE shall monitor and promptly notify the LESSOR upon observing any paved surfaces requiring maintenance, repair or replacement, or any conditions which may present a hazard to persons or property. LESSEE shall promptly barricade or otherwise make area safe until LESSOR mitigates or remedies the situation.

The LESSOR shall have no duty, responsibility or obligation to provide tie-down chains, or tow, tug, position, re-position, or otherwise handle or maneuver parked aircraft on the aircraft parking apron. LESSEE will indemnify, defend and hold harmless LESSOR for all liability, claims or damages arising out of or resulting from LESSEE's performance of these services on the aircraft parking apron.

## 15. OPERATIONAL REQUIREMENTS

Subject to damage or destruction of Facilities and other circumstances which prevent LESSEE from conducting its business on the Premises as referenced in this Agreement, LESSEE shall, twenty-four (24) hours per day, seven (7) days per week (including holidays), three hundred sixty five (365) days per year, unless otherwise specified herein, use and operate the Premises, at its sole cost and expense, for the purpose of providing commercial aeronautical activities of customary FBO services to both personal and business, local and itinerant, users/pilots operating single and multiengine reciprocating and turbine aircraft.

LESSEE agrees that it will adhere to the following operational requirements:

- (a) LESSEE shall, upon request by LESSOR, provide LESSOR with a copy of any rules, regulations, operating policies, or other standards of operation developed by LESSEE and distributed to sublessees and tenants.

(b) LESSEE will maintain and operate the Facilities in a safe, clean, orderly condition at all times and provide such accommodations and services offered in connection therewith in a first-class manner and maintain a standard of service at least equal to that of other FBOs and facilities of similar nature.

(c) LESSEE shall not interrupt or preclude an owner or operator (self-service) or third party commercial aeronautical service provider from assisting the user of a disabled aircraft in placing the aircraft in a condition so it can be taxied, towed or flown. LESSEE shall not preclude users of the Airport from servicing the user's aircraft. Other than the payment of fair, reasonable and non-discriminatory rents and charges for aircraft ramp and tie-down parking, LESSEE shall not require Airport users to secure other goods and services from LESSEE. However, an owner or operator or third party commercial aeronautical service provider must have LESSEE's permission in order to enter LESSEE's Premises to fuel and/or service aircraft parked on the Premises. Such permission from LESSEE may be withheld only for due cause.

(d) LESSEE shall maintain sufficient furniture, fixtures, equipment, tools, accessories, and supplies, and employ a sufficient number of personnel to handle the operations and respond to customer inquiries and furnish good, prompt and efficient service and sales adequate to meet all reasonable demands and needs of the business herein authorized, including all transient and local based aircraft. All equipment, tools, and vehicles to be used in the operation of LESSEE's business at the Airport will be in good and safe operating condition and will be kept in an orderly and clean manner at all times. All equipment and vehicles will be operated by LESSEE and its employees, agents, and/or representatives in a safe and orderly manner at all times. Upon objection from LESSOR to LESSEE concerning the operation of such equipment and vehicles, or the unsafe and unclean condition of the equipment and vehicles, LESSEE will immediately remedy the cause of the objection.

(e) LESSEE shall provide and maintain a VHF aviation radio system at all times; monitor aircraft radio transmissions from approximately 6:00 a.m. to 9:00 p.m. on the common traffic advisory frequency (CTAF); provide to airmen upon request basic weather advisory services (wind direction, barometric pressure in inches); traffic advisories of known reported traffic in the traffic pattern, arriving and departing; other known or reported cautions or potential hazards to airmen, including closed Airport surfaces, light outages or similar discrepancies.

(f) LESSEE will provide to LESSOR and maintain a local, 24-hour monitored telephone for emergency purposes, and regular maintenance contact that may be required at the Premises. Any such calls and/or requests for service shall be responded to within a maximum 2-hour period.

(g) LESSEE will not block any areas used for ingress and egress by Airport traffic and will not interfere with the activities of LESSOR, its agents, employees or other Airport tenants.

(h) LESSEE will not engage in any unlawful restraint of trade or anti-competitive activities with any other commercial aeronautical operator at the Airport.

(i) LESSEE must, at its own expense, identify and provide to LESSOR and maintain in force any and all licenses, permits and operating certificates required for the legal operation of all aspects of this Agreement.

(j) LESSEE is responsible for initiating, maintaining, and supervising all safety precautions and programs for purposes of risk management and risk reduction which may be reasonably directed or suggested by the current insurance underwriter, underwriter's authorized agent, or LESSOR. LESSEE shall keep in proper functioning order at all times fire monitoring, warning and suppression systems, and shall from time to time as reasonably required by LESSOR, federal, state or local government, or insurance underwriter conduct appropriate tests of the system.

## 16. OPERATIONAL STANDARDS OF SERVICE

LESSEE agrees that it will meet or exceed the following standards of conduct, level of service, and personal guidelines, and shall:

(a) Furnish service on a fair, reasonable and not unjustly discriminatory basis to all users.

(b) Furnish good, prompt, courteous and efficient service adequate to meet all reasonable demands for its services.

(c) Maintain and operate its business in a first class manner, and shall at all times keep the Premises in a safe, clean and orderly condition consistent with business activity contemplated hereunder, and in a manner satisfactory to the LESSOR.

(d) Exercise reasonable control over the conduct, demeanor and appearance of its employees, agents, invitees, representatives, contractors, subcontractors, and suppliers, whereby their conduct shall be in an orderly and proper manner so as not to annoy, disturb, or be offensive to others. All employees of LESSEE shall conduct their activities in accordance with Airport Rules and Regulations, policies, and Airport Standard Operating Procedures, and shall, at all times while on duty, conduct themselves with exemplary demeanor, be courteous and polite to the public and not engage in any raucous or offensive conduct.

(e) Appoint and maintain full-time, trained, experienced and professional management and supervisory staff. Such management and supervisory staff shall be highly qualified, experienced and knowledgeable, and vested with full authority to act on the LESSEE's behalf. Such management and supervisory staff shall be available at the Airport during regular business hours, and shall be available, "on-call" after regular business hours via phone, pager, or other electronic communications device;

(f) Appoint and maintain sufficient number of trained employees to promptly, effectively, efficiently and safely provide good quality customer service without unreasonable delay.

(g) Provide required technical training for employees, and/or verify certificates or qualification, as may be required for such employees to carry out assigned duties.

#### **17. NON-EXCLUSIVE USE OF AIRPORT**

LESSOR grants to the LESSEE and its customers, agents, invitees, contractors, representatives and employees, in common with other users, the non-exclusive use of the Airport and appurtenances, together with all facilities, improvements and services which are now, or may hereafter be provided at, or in connection with the Airport. This use is limited to the purposes for which such facilities were designed and constructed, and for no other purposes, and is available on a non-exclusive use basis, according to the discretionary operational decisions of LESSOR. These facilities include, but are not limited to common use roadways, streets, aircraft parking ramps, taxiways, runways, access gates, lighting, beacons, navigational aids, or other conveniences for aeronautical operations which are not leased Premises of the LESSEE or of any other tenant on the Airport.

#### **18. LESSEE'S RIGHTS AND PRIVILEGES**

LESSEE shall have the following rights and privileges on the Premises and on the Airport:

(a) The rights to install, operate, repair, and store upon the Premises all personal property and fixtures necessary for the conduct of LESSEE's lawful business.

(b) The right of ingress and egress to and from the Premises, which rights shall extend to LESSEE's customers, agents, invitees, contractors, representatives and employees, subject, however, to all reasonable regulations.

(c) The right in common with others authorized to do so, to use the common areas of the Airport, consisting of but not limited to public roadways, streets, aircraft parking ramps, taxiways, runways, access gates, lighting, beacons, and navigational aids.

(d) The right to uninterrupted taxiway connection and access from the Premises to the LESSOR's air operations areas connecting and adjacent to the Premises subject to the provisions of Section 21. Cooperation with Airport Development.

## 19. LESSOR'S RIGHTS AND PRIVILEGES

LESSOR expressly reserves:

(a) Mineral Rights. All gas, oil and mineral rights in and under the soil.

(b) Water Rights. All statutory, exempt, vested, and granted appropriation rights for the use of water, and all rights to request further appropriations.

(c) Airspace. A public right of flight through the airspace above the surface of the Premises. This public right of flight will include the right to cause or allow in said airspace, any noise inherent in the operation of any aircraft used for navigation or flight through said airspace or landing at, taking off from, or operation on the Airport. No liability on the part of LESSOR or any Tenant will result from the exercise of this right.

(d) Navigational Aids. The right to install, maintain and modify and/or permit others to install, maintain and modify visual and electronic navigational aids. LESSOR shall have no obligation or duty to exercise this right to install, maintain and modify visual and electronic navigation aids.

(e) Entry and Inspection of Premises. The right of LESSOR, its authorized officers, employees, agents, contractors, subcontractors, authorized government agents, or other representatives to enter upon the Premises:

(1) To inspect at reasonable intervals during regular business hours (or any time in case of emergency or lawful investigation) to determine whether LESSEE has complied, and is complying with the terms and conditions of this Agreement; and

(2) To inspect Premises, Facilities, and equipment for compliance with laws, regulations and/or codes of the federal, state or local government, airport rules and regulations and airport standard operating procedures; and

(3) To perform maintenance, repair, or replacement relating to the Premises or any facility thereon, as may be required and necessary, but LESSOR shall not be obligated to exercise this option.

(f) Radio/Wireless Communication Systems. The right to approve or withhold approval of any use of fixed RF Systems for the transmission of radio frequency signals in/on the Premises.

(g) Security access control and surveillance. The right to install, operate and maintain security access control and surveillance systems on Airport property, including the Premises contained in Section 1 of this Agreement. However, the LESSOR shall have no right to install security infrastructure or end-devices in or upon the leasehold Premises without prior notice to the LESSEE. LESSOR shall have no obligation or duty to exercise this right to install, operate and maintain security access control and surveillance systems.

(h) General Provisions. The right to exercise any and all rights set out in this Agreement.

(i) Signage. The right to enter onto the Premises for installation, and the right to install any signage on the Premises required by law, order, rule, regulation, Airport Security Program or federal directive.

Provided that exercise by LESSOR of any such reserved rights (a) through (i) shall be without expense to the LESSEE, and shall not unreasonably delay LESSEE in the exercise of its rights or the performance of its duties hereunder.

## **20. NON-INTERFERENCE WITH AIRPORT OPERATIONS**

LESSEE covenants and agrees that it shall not allow any condition on the Premises, nor permit the conduct of any activity on such Premises which shall materially or adversely affect the development, improvement, operation, or maintenance of the Airport or its facilities, nor shall LESSEE use or permit the Premises to be used in any manner which might interfere with the landing and take-off of aircraft from the Airport or otherwise constitute a hazard to the general public, or to LESSOR's tenants or the customers, agents, invitees, contractors, representatives and employees of those tenants.

LESSEE covenants and agrees that it shall not allow any condition on the Premises, nor permit the conduct of any activity on such Premises, which shall materially or adversely affect, infringe upon, block or interrupt the operations or business activity of other Airport tenant leaseholds.



## **21. COOPERATION WITH AIRPORT DEVELOPMENT**

LESSOR may pursue Airport development, improvements and maintenance activities from time-to-time as it sees fit in its sole judgement, regardless of the desires or view of LESSEE that may affect the Premises and other areas of the Airport. LESSEE agrees to work cooperatively and in good faith with the LESSOR and other tenants and contractors in development, improvement and maintenance activities to minimize any disruptions. If requested by the LESSOR, LESSEE shall cooperate with and assist the LESSOR to a reasonable extent in the development and implementation of any plans, designs, ingress/egress, or transition that may arise in connection with such Airport development, improvement, and maintenance activities. LESSOR may temporarily or permanently close, re-route, or consent to the closing or re-routing of any method of ingress or egress on the Airport. LESSOR shall use its best reasonable efforts to minimize any adverse affect upon LESSEE's uses and business activity within the Premises and the Airport common areas. LESSOR may temporarily close the runway, taxiways, and Aircraft Parking Ramps or portions thereof for purposes of maintenance, replacement, re-construction or expansion. LESSOR's airport development, improvement, or maintenance shall be without expense to the LESSEE. LESSEE shall not be entitled to any compensation for loss of revenue, business interruption, relocation, temporary storage rental, additional increased fuel costs, engine cycles or any other expense attributable to the development, improvement, or maintenance on the Airport.

In the event LESSOR's development, improvement or maintenance results in a complete closure of the runway, and the LESSEE's business and operations normally conducted on the Premises are materially adversely affected by LESSOR's activities contemplated hereunder for more than ten (10) consecutive calendar days, the rental payable by LESSEE hereunder shall be equitably abated during the period LESSEE is so affected.

## **22. FUTURE ALTERATION AND IMPROVEMENT STANDARDS**

During the Term of this Agreement, LESSEE may, with prior written approval of LESSOR, and by lease amendment, if appropriate, add to, improve, or alter the Premises subject to all conditions set forth herein. The LESSOR's review and approval shall not be unreasonably withheld or unduly delayed.

It shall be the responsibility of LESSEE to submit all necessary alteration and/or construction information to the Director of Airports, as the LESSOR's representative, for submission to the



Federal Aviation Administration for approval.

LESSEE agrees to and shall design and construct any facilities and improvements on the Premises subject to the LESSOR's approval of LESSEE's proposed plans and specifications. All construction shall be performed in a good and skilled manner with adherence to the terms and conditions of this Agreement and to any additional design and construction standards, and all other applicable rules, regulations, codes, Airport Standard Operating Procedures and requirements set out by LESSOR.

No construction, development or subsequent activities shall be allowed to cause adverse drainage issues such as erosion, blocking the flow of water, etc.

For any construction on the Premises, LESSEE shall purchase and maintain a builder's risk insurance policy, or require its prime contractor to carry such a policy, in a sum equal to the full project replacement value, with an insurer licensed in the State of Kansas. This coverage shall be in effect from the date of the construction notice-to-proceed and until all financial interest ceases. The Wichita Airport Authority and the City of Wichita shall be named as additional insureds on such policies.

LESSEE agrees to furnish a letter to LESSOR warranting that: (1) the improvements have been completed in accordance with the plans and specifications; (2) the improvements have been completed in a good and skilled manner; (3) no liens have been filed, nor is there any basis for the filing of such liens with respect to the improvements; (4) all improvements constituting a part of the project are located or installed upon the Premises; and (5) a statement of the actual total construction cost of the approved project.

Additions or alterations must be designed and constructed in a manner that will not weaken or impair the structural strength or reduce the value or functionality of the Premises or existing improvements thereon, or change the purpose for which the building or any part thereof, may be used. The approvals of this Section shall be deemed approved by the Wichita Airport Authority, as LESSOR, in its capacity as the property owner and landlord, but shall not be deemed approvals as required for the Zoning Code, Building Code, or any other approval or permit required by the City of Wichita in a regulatory or governmental capacity. Notwithstanding any other indemnity provision, LESSEE shall indemnify and hold the LESSOR harmless for any liability for regulatory or governmental approvals or the failure to obtain the same. LESSEE shall be responsible for obtaining all permits and approvals required for the construction, maintenance, operation and use of all Facilities on the Premises.

### **23. REMOVAL AND DEMOLITION**

LESSEE shall not remove or demolish (except as referenced in Section 48 below), in whole or in part, any improvements upon the Premises without the prior written consent of the LESSOR, which may, at its discretion, condition such consent upon the obligation of LESSEE replacing the same by a reasonable improvement specified in such consent.

### **24. TITLE TO FACILITIES, IMPROVEMENTS AND FIXTURES**

Title/ownership to the Premises, and to all existing structures, fixtures, Facilities, and improvements, or future Facilities and improvements constructed by or placed on the Premises by LESSEE shall be, and shall remain, exclusively with LESSOR, the Wichita Airport Authority.

LESSEE shall, without cost to LESSOR, furnish and install all non-attached furniture, movable partitions, decorations, accessories, equipment, trade fixtures, and tools necessary to conduct its business, which shall retain status as personal property even though temporarily affixed to the Premises. Title/ownership to personal property, trade fixtures and other items described above shall remain with LESSEE.

The term "fixtures", whenever used in this Agreement, shall be construed to include all structures and fixed systems and equipment erected or installed upon the Premises, all fencing, grading and pavement, all underground wires, cables, pipes, conduits, tanks, drains and drainages, and all other property of every kind and nature which is permanently affixed to the Premises, except LESSEE's personal property and trade fixtures.

All Facilities, structures, fixtures and improvements, and alterations and additions to the Premises, excluding personal property and trade fixtures of LESSEE, placed at the expense of LESSEE, shall remain upon and be surrendered with the Premises as a part thereof, on any termination of this Agreement, for any cause, and shall remain the property of the LESSOR.

## 25. LIENS

LESSEE shall take or cause to be taken all steps that are required or permitted by law in order to avoid the imposition of any lien upon the Premises or any improvements thereon due to any labor performed or materials delivered to the Premises for the benefit of LESSEE. Should any lien be placed on the Premises or any improvements thereon, LESSEE shall cause to be removed any and all liens of any nature. This obligation includes, but is not limited to, tax liens and liens arising out of or because of any financing, construction or installation performed by or on behalf of LESSEE or any of its contractors or subcontractors upon LESSEE's Premises or arising out of or because of the performance of any work or labor to it or them at said Premises or the furnishing of any materials to it or them for use at said Premises. Should any such lien be made or filed, LESSEE shall bond against or discharge the same within sixty (60) calendar days after actual notice of the same from any source, whether from LESSOR or otherwise, and provide written proof of discharge or bonding to LESSOR within that time. LESSEE acknowledges that its interest in the Premises is a leasehold, and that notwithstanding its construction of improvements on the Premises, such improvements accrue to the LESSOR and that LESSEE has no equity interest in the Premises which can support a mortgage lien. LESSEE may not mortgage or pledge as collateral its leasehold interest herein without the prior written consent of the LESSOR.

LESSOR may consent, upon LESSEE's written request, to an assignment of rents to a governmentally regulated and insured commercial lender as partial security for financing of LESSEE's activities on the Premises, which assignment is intended to be a present transfer to such lender of all of LESSEE's rights to collect and receive rents and charges from approved users, operators, sublessees and permittees. Lender(s) shall have no rights to assign this Agreement or sublease the Premises without the prior written consent of the LESSOR as required or permitted under Section 28, Assignment and Section 29, Subleasing, Permitting and Contracting. Upon LESSEE's written consent LESSOR agrees to give Lender(s) notice of any default or termination of the Agreement, and allow Lender(s) the same opportunity as the LESSEE under the Agreement to correct any condition or cure any default. Nothing in this Section is intended to relieve the LESSEE of its obligations under this Agreement.

## **26. TAXES, LICENSES AND PERMITS**

LESSEE shall promptly pay all taxes, excises, license fees and permit fees of whatever nature applicable to its operation or lease of the Premises and LESSEE's ownership of personal property on the Premises. LESSEE may elect, however, at its own cost and expense, to contest any such tax, excise, levy, or assessment. LESSEE will keep current all federal, state or local licenses, operating certificates or permits required for the conduct of its business. LESSEE represents and warrants to LESSOR that it has obtained all license, franchise, operating certificates or other agreements, permits or authorizations necessary to operate LESSEE's business in accordance with the terms of this Agreement, and LESSEE covenants to keep all such licenses, franchises, permits, operating certificates and other agreements in full force and effect during the Term of this Agreement.

LESSEE shall pay all lawful taxes and assessments which, during the Term hereof, may become a lien upon or which may be levied by the state, county, city or any other tax levying body, upon the leased Premises or upon any taxable interest of LESSEE acquired in Agreement, or any taxable possessory right which LESSEE may have in or to the leased Premises, including any improvements or Facilities located on the Premises, as well as LESSEE shall also pay all lawful taxes and assessments on taxable property, real or personal, owned by LESSEE in and about said Premises. Nothing in this Section shall prevent LESSEE from contesting the legality, validity or application of any such tax or assessment to the full extent LESSEE may be lawfully entitled so to do.

## **27. UTILITIES**

LESSEE shall pay all costs for utility services (whether for installation, service, administration, connection, or maintenance thereof) used by LESSEE at, upon or to the Premises with no responsibility or expense accruing or inuring to LESSOR, including all permits, licenses or authorizations necessary in connection therewith. Such payments by LESSEE shall be made directly to the utility supplier or service provider, except that if such utilities should be supplied by the LESSOR, then in this event, LESSEE will pay those costs to LESSOR within thirty (30) calendar days after receipt of LESSOR's invoice. LESSOR agrees that any such costs invoiced to LESSEE will be based on the rates charged to LESSOR by utility supplier, plus reasonable capital and administrative recovery costs.

Unless otherwise agreed upon in writing, if LESSEE requires utilities beyond that currently provided or that are available to be extended to the Premises boundary, LESSEE agrees to pay the full cost and expense associated with the upgrade/extension/installation of all such utilities related to its use of the Premises, and to comply with all provisions for maintaining such utilities.

The LESSOR reserves for itself the right to upgrade, extend, install, maintain and repair all utilities and services on or across the Premises, whether or not such services or utilities are for the benefit of LESSEE. The LESSOR shall take all reasonable care and diligence to protect existing improvements and utilities, and shall avoid to the greatest extent possible any unreasonable interference or interruption to LESSEE's operations. LESSOR shall coordinate the timing of such work with LESSEE in advance to minimize interference with LESSEE and its customers.

All electrical, data and communications utilities installed or caused to be installed shall be underground, and no utility services or other cables or wires shall be installed on poles or otherwise above ground. Unless otherwise provided in this Agreement, all utilities and conduits or ducts installed by anyone on the Premises shall be considered fixtures as defined under Section 24, Title to Facilities, Improvements and Fixtures, and shall become the owned property of LESSOR. All utility facilities installations shall meet the requirements of Section 22, Future Alteration and Improvement Standards of this Agreement.

Wastes not legally permitted and authorized for disposal into the storm and/or sanitary drainage system shall not be discharged, connected or introduced into storm and/or sanitary drains and the storm and/or sanitary drainage system. LESSOR shall take all reasonable precautions to prevent the discharge of material into any drainage system that would create interference with the flow therein, or that would cause a hazard or unlawful contamination thereto. A copy of LESSEE's Stormwater Pollution Prevention Plan and Spill Prevention Control and Countermeasure Plan shall be submitted to the LESSOR upon the LESSOR's request.

## **28. ASSIGNMENT**

With the exception of assignment to a parent or "holding" company or subsidiary, LESSEE shall have no right to assign or delegate any of its rights or duties pursuant to this Agreement without the prior written consent of LESSOR. Any assignment or delegation so made by LESSEE and so permitted by LESSOR shall be subject to all terms, conditions and other provisions of this

Agreement. Any attempted assignment or delegation in violation of this provision shall be void and have no force or effect whatsoever.

## **29. SUBLEASING, PERMITTING AND CONTRACTING**

LESSEE shall not sublease to any persons, firms or corporations to occupy any part of the Premises without having first received the prior written consent of LESSOR, granted only under the following conditions:

(a) Any arrangements must be in the form of a written instrument and must be for purposes and uses of the Premises as authorized under this Agreement, and shall be subject to the provisions of this Agreement. LESSEE shall submit a copy of such proposed instrument at the time of requesting consent of LESSOR.

(b) All sublease(s) must comply with Sections 11, 13, 18 and 19 of this Agreement, and will be reviewed for compliance by LESSOR to that end. Any arrangement for the subleasing of space must be in conformance with the use of the Premises outlined in this Agreement, unless expressly approved otherwise in writing by LESSOR.

(c) LESSEE hereby agrees that it shall incorporate language acceptable to LESSOR into all of its sublease agreements, placing on any sublessee and that sublessee's affiliated entities, customers, employees, invitees, contractors, and subcontractors similar restrictions, as may be appropriate to its approved uses as those which bind LESSEE and its use of the Facilities through this Agreement. LESSEE shall also incorporate and make reference to this Agreement, as may be amended from time to time, to ensure sublessee's operations and conduct are subject to and are in compliance with the terms and conditions of this Agreement, as may be amended from time to time. Any sublease agreement shall explicitly state that it is subordinate to this Agreement, and that the sublessee shall never obtain rights in the Premises greater than those held by LESSEE under this Agreement, as amended. Any sublessee shall be specifically subject to eviction from the Premises as a result of termination, cancellation, or expiration of this Agreement, irrespective of sublessee's state of compliance with the terms of its sublease.

(d) LESSEE shall at all times during the term(s) of approved sublease(s), remain responsible to LESSOR for the compliance of its sublessees with the terms and conditions of any approved sublease and with this Agreement. LESSOR may look to LESSEE directly to satisfy any failure of sublessee to comply with these documents.

(e) Consent to one sublease shall not be deemed consent to any subsequent sublease, permit or subcontract. Prior written consent of the LESSOR shall be required for each sublease executed by the LESSEE.

This Section shall not have the effect of requiring LESSOR approval of written or verbal arrangements, agreements or contracts for transient and based aircraft tie-down, ramp parking, hangar space rental, or rental of small storage or office space to based tenants incidental to hangar storage as are customary services provided in the aircraft support industry. Furthermore, written or verbal arrangements, agreements or contracts for products and services not involving the subleasing of Land or Facilities shall not require LESSOR approval.

### **30. LIABILITY INSURANCE**

LESSEE shall procure, maintain and carry, at its sole cost, in accordance with and/or until the expiration or termination of this Agreement all insurance, as required per the amounts as set forth below. Insurance shall be furnished by a company licensed to do business in Kansas.

Insurance certificates shall be issued on a standard ACORD form or such other documentation as may be acceptable to LESSOR in its discretion and include the NAIC number and name of the insuring company. Each insurance company's rating, as shown in the latest Best's Key Rating Guide, shall be no less than A-VII, unless otherwise approved by the LESSOR, or from a Workers' Compensation pool approved by the State of Kansas. Insurance certificates or other approved documentation must be received and approved by the LESSOR prior to occupancy. LESSOR retains the right to require changes in the character, coverages and amounts of coverage commensurate with changes in the LESSEE's use of the Premises or LESSEE's financial standing. All policy deductibles shall be shown on the certificate of insurance or other approved document, and meet the reasonable approval of LESSOR.

The failure of LESSOR to reject the LESSEE's proffered insurance shall not be deemed to constitute an acceptance by the LESSOR of deficient insurance coverage. If the LESSEE fails to procure or maintain any of the specified coverages within ten (10) calendar days after written notice from LESSOR, the LESSOR has the right, but not the obligation, to secure the coverage and charge the cost to the LESSEE along with a 20% administrative fee.

The LESSEE shall be responsible for determining the types and limits of insurance coverage required by any approved subleasee, permittee or contractor of the LESSEE commensurate with

the type of activity and associated risk levels. At a minimum, any sublessee, permittee or contractor shall carry Workers' Compensation (statutory requirements), aviation general liability and/or commercial general liability as applicable (minimum of \$1,000,000 per occurrence); and commercial automobile liability (minimum of \$1,000,000 combined single limit). LESSEE shall require in any approved sublease and/or operating permit executed with the LESSEE that the Wichita Airport Authority and the City of Wichita shall be added as primary and non-contributory additional insureds on the sublessee's or permittee's aviation general liability insurance and/or commercial general liability policy, as applicable. All deductibles shall be commercially reasonable to the parties.

The requirements, procurement and carrying of the required insurance shall not limit any of the LESSEE's obligations or liability under this Agreement or as a matter of law.

Where "minimum limits" of insurance are specified in this Section, such minimum insurance limits are required and considered by LESSOR to be the lowest insured amounts acceptable under this Agreement. The LESSEE is not limited or restricted whatever in securing additional insurance coverage and higher insured limits than those specified herein if, at the LESSEE's determination and discretion and commensurate with the type of activity and associated business and operational risk, additional coverage and higher limits are necessary and appropriate.

Insurance shall include the following terms, conditions and minimum limits:

a) WORKERS' COMPENSATION

LESSEE shall maintain workers' compensation insurance to cover the statutory requirements of the workers' compensation laws of the State of Kansas for its operations on the Premises, and when applicable, employer's liability (including occupational disease) coverage.

Employers Liability Limits

\$1,000,000/\$1,000,000/\$1,000,000

b) COMMERCIAL AUTOMOBILE LIABILITY

LESSEE shall maintain commercial auto liability insurance on an occurrence form. Minimum limits, as outlined herein, shall be:



Combined Single Limit

\$1,000,000 Each Accident

c) AVIATION AND/OR COMMERCIAL GENERAL LIABILITY

LESSEE shall maintain aviation and/or general liability insurance, as appropriate on an occurrence form. Coverage shall include on-going operations, product/completed operations (minimum of two years following the project completion) and personal and advertising injury. Minimum limits, as outlined herein, shall be:

General Aggregate	\$4,000,000
Products/Completed Operations	\$2,000,000
Personal and Advertising Injury	\$1,000,000
Each Occurrence	\$3,000,000

The Wichita Airport Authority and the City of Wichita shall be added as primary and non-contributory additional insureds.

d) UMBRELLA/EXCESS LIABILITY COVERAGE

The LESSEE shall provide minimum umbrella/excess liability limits (excess of commercial automobile liability) of:

Each Occurrence Limit	\$2,000,000
Annual Aggregate Limit	\$2,000,000

The Wichita Airport Authority and the City of Wichita shall be added as primary and non-contributory additional insureds covered under this umbrella/excess liability coverage.

e) POLLUTION LIABILITY COVERAGE

The LESSEE shall provide pollution liability coverage with a minimum limit of:

Each Claim	\$1,000,000
Aggregate Limit	\$2,000,000

The Wichita Airport Authority and the City of Wichita shall be added as primary and non-contributory additional insureds covered under this *pollution liability* coverage.

LESSEE agrees that in the event of future changes in the law or upon notice by LESSOR, the minimum types and levels of insurance required by this Section may be increased within the bounds of commercial reasonableness.

LESSEE agrees, prior to the commencement of the Agreement, to provide LESSOR with copies of all certificates or other documentation approved by LESSOR evidencing that such insurance policies are in full force and effect, and make any or all policies available upon request. This Agreement shall not commence until policies of insurance satisfactory to LESSOR are supplied by LESSEE. LESSEE shall provide LESSOR updated certificates of insurance the earlier of annually, or upon renewal, which certificate shall demonstrate the coverage required in this Section for the ensuing twelve (12) month period. Upon request, LESSOR may audit LESSEE's insurance coverages and policies. Failure to maintain satisfactory insurance policies in force shall constitute grounds for termination of this Agreement as set forth in Section 34, Termination by LESSOR, of this Agreement.

LESSEE shall be solely responsible for obtaining insurance policies that provide coverage for losses or damage of LESSEE-owned (personal and trade fixtures) property. The LESSOR shall not provide such insurance coverage for LESSEE-owned (personal and trade fixtures) property, or be responsible for payment of LESSEE's cost for such insurance.

### **31. ALL RISK PROPERTY INSURANCE**

LESSEE, at its expense, throughout the Term of this Agreement, shall cause any Facilities, structures, fixtures and improvements on the Premises to be insured against loss or damage by fire or other casualty equal to the full replacement value thereof and by an all risk coverage policy furnished by a company licensed to do business in Kansas. Such policy shall not exclude, or in the alternative, shall carry full coverage endorsements for damage from tornado, hail, and sewer backup, and shall furnish LESSOR a certificate evidencing such insurance. The first dollar proceeds of any payments made under such insurance policy or policies shall be used to replace, restore, rehabilitate or reconstruct the insured Facilities, subject to the provisions governing damage or destruction found at Section 48. LESSEE agrees, prior to the commencement of the Agreement, to provide LESSOR with copies of all policies or certificates evidencing that such

insurance are in full force and effect, and stating the terms thereof. This Agreement shall not commence until policies of insurance satisfactory to LESSOR are supplied by LESSEE.

LESSEE shall provide LESSOR updated certificates of insurance the earlier of annually, or upon renewal, which certificate shall demonstrate the coverage required in this Section for the ensuing twelve (12) month period. Failure to continuously maintain satisfactory insurance policies in force shall constitute grounds for termination of this Agreement.

In lieu of insuring the Premises by the LESSEE against the loss or damage by all risk coverage, LESSEE shall have the option to request that the Facilities and improvements on the Premises be insured under the LESSOR's blanket policy, and the LESSEE agrees to pay the premiums for the cost of the insurance, plus its prorata share of any deductible required to be paid by LESSOR under its blanket policy which is attributable to the Premises. The value of the Facilities and improvements shall be determined by the LESSOR.

LESSEE shall be solely responsible for obtaining insurance policies that provide coverage for losses or damage of LESSEE-owned (personal and trade fixtures) property. The LESSOR shall not provide such insurance coverage for LESSEE-owned (personal and trade fixtures) property, or be responsible for payment of LESSEE's cost for such insurance.

### **32. SUBROGATION OF INSURANCE**

LESSOR hereby waives any and all rights of recovery against LESSEE for or arising out of damage or destruction of the Facilities, or the demised Premises, or any other property of LESSOR, from causes then included under any of LESSOR's property insurance policies, to the extent such damage or destruction is covered by the proceeds of such policies, whether or not such damage or destruction shall have been caused by the negligence of LESSEE, its agents, servants or employees or otherwise but only to the extent that its insurance policies then in force permit such waiver without diminution of LESSOR coverage.

LESSEE hereby waives any and all rights of recovery against LESSOR for or arising out of damage to or destruction of any property of LESSEE from causes then included under any of its property insurance policies, to the extent such damage or destruction is covered by the proceeds of said policies, whether or not such damage or destruction shall have been caused by the negligence of LESSOR, its agents, servants or employees or otherwise but only to the extent that

its insurance policies then in force permit such waiver without diminution of LESSEE's coverage.

### **33. LOSS OF PERSONAL PROPERTY**

Notwithstanding anything to the contrary, any personal property of LESSEE or others placed in or upon the Premises shall be at the sole risk of the LESSEE, and LESSOR shall not be responsible or liable for any loss, damage and replacement thereto, regardless of the cause of such loss or damage, and the LESSEE waives all rights of subrogation against recovery from the LESSOR for such loss or damage unless such loss or damage is the result of the LESSOR's, its contractors, invitees and licensees, negligence or intentional misconduct.

Notwithstanding anything to the contrary, any personal property of LESSOR or others placed in or upon the Premises shall be at the sole risk of the LESSOR, and LESSEE shall not be responsible or liable for any loss, damage and replacement thereto, regardless of the cause of such loss or damage, and the LESSOR waives all rights of subrogation against recovery from the LESSEE for such loss or damage unless such loss or damage is the result of the LESSEE's, its contractors, invitees and licensees, negligence or intentional misconduct.

### **34. TERMINATION BY LESSOR**

The LESSOR, in addition to any other rights to which it may be entitled by law or otherwise, may terminate this Agreement by giving LESSEE written notice in the event of default by LESSEE under this Agreement failing to be cured or waived prior to the expiration of sixty (60) calendar days after the LESSEE's receipt of written notice of such default and opportunity to cure from the LESSOR, upon or after the happening of any one of the following default events:

(a) LESSEE shall file a voluntary petition in bankruptcy or that proceedings in bankruptcy shall be instituted against it and LESSEE is thereafter adjudicated bankrupt pursuant to such proceedings;

(b) A court shall take jurisdiction of LESSEE and its assets pursuant to proceedings brought under the provisions of any Federal reorganization act, which proceedings have not been dismissed within one hundred and twenty (120) calendar days;

- (c) Receiver of LESSEE's assets shall be appointed which receivership has not been dismissed within one hundred and twenty (120) calendar days;
- (d) LESSEE shall be divested of its estate herein by other operation of law; or
- (e) LESSEE shall fail to perform, keep and observe any of the obligations, terms, warranties or conditions contained in this Agreement that on the part of LESSEE are to be performed, kept or observed.

If any such condition or default cannot reasonably be corrected within the 60-day period and LESSEE has demonstrated due diligence with respect to curing said default, then, at the LESSOR's sole discretion, such cure period may be extended for consecutive periods of 30 calendar days, as long as diligent progress is made toward cure, with a reasonably foreseeable resolution date. Under such circumstances, default may be treated as cured until cured. Should diligent progress cease, or the reason for default become apparent as insoluble, then the Term shall cease and terminate at the end of the 30-day extension then in effect.

Acceptance of rental by LESSOR for any period or periods after a notice of default is issued by LESSOR of any of the obligations, terms, warranties and conditions herein contained to be performed, kept and observed by LESSEE shall not be deemed a waiver of any other right on the part of LESSOR to terminate this Agreement for failure by LESSEE so to perform, keep and observe any of the obligations, terms, warranties, or conditions hereof to be performed, kept and observed. No waiver of default by LESSOR of any of the obligations, terms, warranties or conditions hereof to be performed, kept and observed by LESSEE, shall be construed to be or act as a waiver of any subsequent default of any of the obligations, terms, warranties or conditions herein contained to be performed, kept and observed by LESSEE.

Upon termination hereunder, all rent and other payments required to be paid by LESSEE shall be prorated as of the effective date of such termination, and LESSOR or LESSEE shall promptly remit payment to the other of the net amount determined to be owed as a result of such proration.

### **35. TERMINATION BY LESSEE**

The LESSEE, in addition to any other rights to which it may be entitled by law or otherwise, may terminate this Agreement by giving LESSOR written notice in the event of default by LESSOR under this Agreement failing to be cured or waived prior to the expiration of sixty (60) calendar days after the LESSOR's receipt of written notice of such event of default and opportunity to cure from the LESSEE, upon or after the happening of any one of the following default events:

(a) Issuance by any court of competent jurisdiction of an injunction in any way preventing or restraining the use of the Airport or any major part thereof for Airport purposes and the remaining in full force of such injunction for a period of at least one hundred twenty (120) calendar days;

(b) Inability of the LESSEE to use, for a period in excess of one hundred twenty (120) calendar days, the Airport or any part of the Facilities because of any law, order, rule, regulation or other action or non-action of the Federal Aviation Administration or any other governmental authority, or because of fire, earthquake, other casualties or acts of God or the public enemy;

(c) LESSOR shall fail to perform, keep and observe any of the obligations, terms, warranties or conditions contained in this Agreement that on the part of LESSOR are to be performed, kept or observed:

- i. LESSEE may give LESSOR written notice to correct such condition or cure such default, and if any such condition or default shall continue for sixty (60) calendar days after receipt of such notice by LESSOR, LESSEE may terminate this Agreement and the Term hereof shall cease and expire at the end of such sixty (60) calendar days in the same manner and to the same effect as if it were the expiration of the Term, unless such condition or default cannot reasonably be corrected within the sixty (60) calendar day period and LESSOR has demonstrated due diligence with respect to curing said default, then such cure period may be extended for consecutive periods of thirty (30) calendar days, as long as diligent progress is made toward cure, with a reasonably foreseeable resolution date. Under such circumstances, default may be treated as cured until cured. Should diligent progress cease, or the reason for default become apparent as insoluble, then the Term shall cease and terminate at the end of the thirty (30) calendar day extension then in effect;

(d) Assumption by the United States Government or any other authorized agency thereof of the operation, control or use of the Airport and the Facilities herein described, or of any substantial part or parts thereof in such a manner as to substantially restrict the LESSEE for a period of one hundred and eighty (180) days from operating on and within the Facilities and;

(e) In the event of destruction of the Facilities, improvements, or the demised Premises as more fully described in Section 48, Damage or Destruction.

Upon termination hereunder, all rent and other payments required to be paid by LESSEE shall be prorated as of the effective date of such termination, and LESSOR or LESSEE shall promptly

remit a net settlement payment(s) to the other as determined to be owed as a result of such proration.

### 36. MAINTENANCE AND REPAIR

LESSEE shall maintain and keep in good repair and condition, reasonable wear and tear and damage or destruction excepted, at its sole cost and expense the Premises as follows:

(a) Exterior of structures, and all exterior mechanical systems (heating, ventilation and air conditioning, and associated motors, boilers, chillers and ducting). "Exterior of structures" shall include but is not limited to the roofs, exterior façade and siding, exterior walls, gutters, downspouts, and load bearing structures of the buildings.

(b) The interior of all structures on the Premises including, but not limited to leasehold improvements, glass, paint, ballast and light bulb replacement, doorways, doors, walls, floors, plumbing, electrical, interior mechanical systems (heating, ventilation and air conditioning, and associated motors, boilers, chillers, ducting and filters), decorations and finishes, plumbing fixtures, equipment and furnishings, telephone, communication and data cables, conduit and accessories, piping, motors, signs, and any other repairs as required or necessary to keep all structures on the Premises in proper condition for the conduct of business.

(c) Grading and drainage systems and drains, paving, lighting, parking lots, fencing, paved hangar floors and approaches, streets and roadways within the Premises.

(d) Utilities at, upon or to the Premises.

(e) From time to time and as often as reasonably required by LESSOR and in accordance with state and local fire codes, conduct appropriate tests of all fire monitoring, alarm and extinguishing equipment, systems and apparatus located on the Premises. Keep in proper functioning order all fire suppression and extinguishing systems and equipment located on the Premises as required by LESSOR, and in accordance with NFPA, and state and local fire codes.

(f) All janitorial service, snow removal, landscaping, landscape maintenance and mowing, and daily routine Premises clean-up work and trash removal to keep the Premises in good and tenantable condition throughout the Term of this Agreement.

(g) The removal and disposal of garbage, debris, contaminants and any other waste material (whether solid or liquid) arising out of its occupancy of the leased Premises or out of its operation. Such removal shall conform to all governmental requirements and regulations as more fully described herein. Such removal and disposal of garbage, debris, contaminants, or other waste material is understood to include routine



clean-up of the Premises. LESSEE shall immediately react and take prompt corrective actions to remove and dispose of any paper, garbage and debris on Premises upon demand of LESSOR. LESSEE shall provide, and screen from public view, suitable covered receptacles for all garbage, trash and other refuse. Piling of boxes, cartons, barrels, pallets or other similar items in an unsightly or unsafe manner on or about the Premises in public view is forbidden.

(h) Repairs due to negligence of LESSEE to the extent not covered by the proceeds of insurance required to be carried by the Parties hereunder:

(i) A twelve percent (12%) administrative fee will be charged on any task that is performed by the LESSOR on behalf of LESSEE if LESSEE fails to perform such action within twenty (20) calendar days plus such additional time as may be reasonably required to complete the same following written notice given to LESSEE demanding performance. In case of emergency action taken in order to protect against personal injury or property damage but not limited to, for which no notice is necessary, LESSOR shall charge the same cost to the expense of LESSEE and a twenty percent (20%) administrative fee.

(j) The fee will be applied to the total cost incurred by the LESSOR in performing the task. The fee represents the LESSOR's cost to manage the task including procurement services, approval processes, management staff time, supervision and overhead. It does not include a profit component.

LESSOR shall be responsible for maintenance, repair and replacement of paved surfaces and storm drainage systems or other improvements on the Airport not within or upon the Premises; however, LESSEE shall be responsible for the repair or replacement of any damaged paved surfaces and/or sub-grade on the Airport that may be caused due to the LESSEE's negligence or intentional misuse, or consent to misuse, of such surfaces, systems or improvements, including but not limited to exceeding the weight bearing capacity limits of the pavements.

### **37. SNOW AND ICE REMOVAL**

LESSEE shall be responsible for all snow and ice removal on the Premises. The Premises shall be maintained to a winter surface condition safe for aircraft operations, and safe for customers and employees moving and working on the ramp. At no time shall LESSEE engage in snow and ice removal beyond the Premises without the prior approval of the LESSOR.

Snow piles, windrows or other accumulations of snow shall not:



- (a) Be closer than twenty five feet from any security fence;
- (b) Block any access gates or controls;
- (c) Block or impede any taxiway or taxi lane;
- (d) Impose an obstruction within the object free area (OFA) of any taxiway or taxi lane;
- (e) Infringe upon, block or interrupt the business of other airport tenant leaseholds.

Snow piles and accumulations requiring removal may be stored on pre-approved/arranged paved or non-paved areas.

Only FAA approved dry and liquid chemicals may be used for de-icing or snow removal on aircraft operating surfaces, as set forth in Advisory Circular 150/5200-30, current edition, or as may be amended, Airport Winter Operations and Safety, Section 4-6 Approved Chemicals, current edition, or as may be amended.

The use of snow and ice removal contractors may be authorized subject to prior written approval by LESSOR, and subject to acceptable completion of contractor employee training, and other reasonable safety requirements and standards that LESSOR may impose, including but not limited to compliance with Airport Rules and Regulations, and Standard Operating Procedures. All such snow and ice removal contractors shall maintain a general liability insurance policy of not less than \$1,000,000 limit naming LESSEE, LESSOR and the City of Wichita as additional insureds.

LESSOR shall be responsible for snow and ice removal on common paved surfaces of the Airport not within the Premises.

### **38. LANDSCAPING**

LESSEE shall provide and install appropriate landscaping and screening, including lawn, shrubbery, trees, bushes, and other plantings and screening on the Premises. All proposed landscaping plans and screening designs shall be submitted to the LESSOR for review and approval, which approval shall not be unreasonably withheld or unduly delayed. Such landscaping shall be in accordance with the Airport's design guidelines in effect at that time, and shall not be installed in such a manner so as to create a wildlife food source, habitat and hazard to aircraft operations. LESSEE agrees to maintain and/or replace such landscaping installations at least seasonally throughout the Term of this Agreement or any extension thereof should they fail

to survive in a manner aesthetically pleasing to LESSOR, a judgment which is to be exercised with reasonable discretion.

### **39. EXTERIOR SIGNS AND ADVERTISING**

LESSEE agrees that no signs or advertising material shall be erected on the Premises or on any improvement or Facilities on the Premises unless the design and layout of such signs and advertising material, together with the materials and method of construction of such signs and advertising material, shall have been approved in advance in writing by LESSOR, which approval shall not be unreasonably withheld or unduly delayed. Pre-existing signs on the Premises installed prior to commencement of this Agreement are considered approved by the LESSOR.

Except to the extent existing prior to commencement of this Agreement, LESSEE shall have no rights to erect or install, or cause or consent to be erected or installed any commercial outdoor advertising by an outdoor commercial advertising agency.

LESSEE shall not erect, install, operate, nor cause or permit to be erected, installed, or operated upon any non-leased Premises of the Airport property, any signs, banners, or other similar devices for its own business, or the business of others without the LESSOR's prior written approval. This provision shall not have the effect of limiting or restricting LESSEE's right to enter into an agreement with LESSOR's authorized and permitted marketing, advertising, or signage agency for the display of informational, marketing or advertising media at approved designated locations on Airport property.

### **40. PORTABLE STORAGE CONTAINERS/STRUCTURES**

Unless specifically approved in writing, and under conditions specified by LESSOR, including but not limited to construction activity, LESSEE shall not place or allow to be placed upon Premises any type of portable storage container, trailer, unit, box, or barrel which is used to store merchandise and/or equipment and supplies outside of an enclosed permanent building or structure, which does not qualify as a building or structure.

#### **41. GRANTING OF EASEMENTS**

LESSEE shall not (i) grant easements, licenses and other rights or privileges in the nature of easements with respect to the Land, or (ii) release existing easements, licenses, right-of-ways and other rights or privileges, and LESSEE agrees, to the extent that it may legally do so, that it will execute and deliver any instrument necessary or appropriate to confirm and grant or release any such easement, license, right-of-way or other right or privilege or any such agreement or other arrangement, upon receipt by LESSEE of (a) a copy of the instrument of grant or release or of the agreement or other arrangement, and (b) a written application signed by the LESSOR requesting execution and delivery of such instrument, provided that, such grant or release is not detrimental to the proper conduct of the business of LESSEE, and such grant or release will not impair the effective use or interfere with the efficient and economical operation of the Facilities. LESSEE shall not request any payment or other consideration for such execution, the same being amply supported by the promises exchanged in this Agreement. Any payments or other consideration received by LESSOR for any such grant or with respect to or under any such agreement or other arrangement shall be and remain the property of LESSOR. The obligations of this Section shall survive termination of this Agreement.

#### **42. RULES AND REGULATIONS**

LESSEE, its agents and employees, shall be subject to any and all rules, regulations, Airport Standard Operating Procedures, orders and restrictions applicable to the Airport and applied and enforced in a non-discriminator manner which are now in force or which may hereafter be adopted by the Wichita Airport Authority or the City of Wichita, Kansas, in respect to the operation of the Airport; and shall also be subject to any and all applicable laws, statutes, rules, regulations or orders of any governmental authority, federal or state, which are now in force or which may hereafter be promulgated, lawfully exercising authority over the Colonel James Jabara Airport or LESSEE's operations conducted hereunder.

LESSOR shall not be liable to LESSEE for any diminution or deprivation of its rights hereunder on account of the exercise of any such authority as in this Section provided, nor shall LESSEE be entitled to terminate this Agreement nor be entitled to seek any damages from LESSOR by reason thereof unless exercise of such authority shall so interfere with LESSEE's exercise of the rights hereunder as to constitute a termination of this Agreement by operation of law in

accordance with the laws of the State of Kansas, or as set out in Section 35. Termination by LESSEE or be determined by a court of competent jurisdiction to be arbitrary or capricious.

#### **43. MINIMUM STANDARDS FOR AERONAUTICAL ACTIVITIES**

LESSOR may, with due notice, from time-to-time, adopt and enforce reasonable and non-discriminatory Minimum Standards for Aeronautical Activities on the Airport, and amendments thereto, and the LESSEE agrees to observe and comply with the same. However, any minimum standards which may be developed and promulgated in the future shall not have the effect of imposing upon LESSEE the requirements of additional Facilities, services or standards beyond that set forth in this Agreement.

#### **44. ENCROACHERS, TRESPASSERS AND OTHER THIRD PARTY HAZARDS**

LESSEE shall lawfully remove or cause to be removed by LESSOR or other official law enforcement agency, all encroachers, trespassers and other third parties violating laws of the federal, state or local government, or who are not on the Premises for legitimate purposes.

#### **45. FIRE EQUIPMENT AND SYSTEMS**

LESSEE shall furnish and maintain on the Premises sufficient smoke detectors, portable fire extinguishing equipment and sufficient fire suppression as may be required by city code and insurance underwriters.

#### **46. ENVIRONMENTAL COVENANTS**

(a) The LESSEE hereby covenants that it shall not cause or permit any Hazardous Substances to be placed, held, located, or disposed of, on, under or at the Premises and storage tank or within the vicinity, shown on the attached **Exhibit A**, other than in the ordinary course of business and in compliance with all applicable laws.

(b) In furtherance and not in limitation of any indemnity elsewhere provided in this Agreement to the LESSOR, the LESSEE hereby agrees to indemnify and hold harmless the LESSOR and the City of Wichita from and against any and all losses, liabilities, including strict liability, damages, injuries, expenses, including reasonable attorneys' fees, costs of any settlement or judgment and claims of any and every kind whatsoever paid, incurred or suffered by, or asserted against, the LESSOR or the City of Wichita by any person or entity for or arising out of the presence on or under, or the escape, seepage, leakage, spillage, discharge, emission, discharging or release from the Premises during any Term of this Agreement of any Substance (hazardous or otherwise) regulated by any applicable statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability, including strict liability, or standards of conduct concerning, any Hazardous Substance (including, without limitation, any losses, liabilities, reasonable attorneys' fees, costs of any settlement or judgment or claims asserted or arising under the Comprehensive Environmental Response, Compensation and Liability Act, any federal, state or local so-called "Superfund" or "Super lien" laws), if such presence, escape, seepage, leakage, spillage, discharge, emission was caused by the LESSEE, or persons within the control of the LESSEE, its officers, employees, agents, contractors, invitees and/or licensees, or if such Substance (hazardous or otherwise) was owned by, or located on the Premises by, the LESSEE (without regard to the actual cause of any escape, seepage, leakage, spillage, discharge, emission or release).

(c) If, during the Term of this Agreement, the LESSEE receives any notice of (i) the happening of any event involving the use (other than in the ordinary course of business and in compliance with all applicable laws), spill, release, leak, seepage, discharge or cleanup of any substance (hazardous or otherwise) on the Premises or in connection with the LESSEE's operations thereon or (ii) any complaint, order, citation or notice with regard to air emissions, water discharges, or any other environmental, health, or safety matter affecting the LESSEE from any persons or entity (including, without limitation, the United States Environmental Protection Agency (EPA) or the Kansas Department of Health and Environment (KDHE)), the LESSEE shall immediately notify the LESSOR in writing of said notice.

(d) The LESSOR shall have the right, but not the obligation, and without limitation of the LESSOR's other rights under this Agreement, to enter the Premises or to take such other actions as deemed necessary or advisable, to inspect, clean up, remove, resolve or minimize the impact of, or to otherwise deal with, any substance (hazardous or otherwise) or environmental complaint following receipt of any notice from any person, including, without limitation, the EPA or KDHE, asserting the existence of any substance (hazardous or otherwise) or an environmental complaint pertaining to the Premises or any

part thereof which, if true, could result in an order, suit or other action against the LESSEE and/or which, in the reasonable judgment of the LESSOR, could jeopardize its interests under this Agreement. If such conditions are caused by circumstances within the control of the LESSEE or if the circumstances result from a substance (hazardous or otherwise) owned by, or located on the Premises by the LESSEE (without regard to the actual cause of any escape, seepage, leakage, spillage, discharge, emission or release), all reasonable costs and expenses incurred by the LESSOR in the exercise of any such rights shall be payable by the LESSEE, within fifteen (15) calendar days of written demand by Landlord.

(e) If an event of default shall have occurred and be continuing, the LESSEE at the request of the LESSOR shall periodically perform, at the LESSEE's expense, an environmental audit and, if reasonably deemed necessary by the LESSOR, an environmental risk assessment of the Premises, or the hazardous waste management practices and/or hazardous waste disposal sites used by the LESSEE with respect to the Premises. Such audits and/or risk assessments shall be conducted by an environmental consultant satisfactory to the LESSOR, and all environmental audits and environmental risk assessments must be reasonable satisfactory to the LESSOR. Should the LESSEE fail to perform any such environmental audit or risk assessment within ninety (90) calendar days of the written request of the LESSOR, the LESSOR shall have the right, but not the obligation, to retain an environmental consultant to perform any such environmental audit or risk assessment. All costs and expenses incurred by the LESSOR in the exercise of such rights shall be payable by the LESSEE on demand.

(f) Neither LESSEE nor LESSOR shall install or permit to be installed in the Premises friable asbestos, electrical equipment containing polychlorinated biphenyls, or any substance containing asbestos and deemed hazardous by federal or state regulations applicable to the Premises and respecting such material. The LESSEE shall defend, indemnify, and save the LESSOR and the City of Wichita harmless from all costs and expenses (including consequential damages) asserted or proven against the LESSEE by any person, as a result of the presence of said substances, and the costs of any removal or compliance with such regulations, if said substance was installed by the LESSEE, or persons within its control.

(g) Subject to any limitations or restrictions imposed by the Kansas Budget Law or Cash Basis Law, the LESSOR hereby agrees to indemnify and hold harmless the LESSEE from and against any and all losses, liabilities, including strict liability, damages, injuries, expenses, including reasonable attorneys' fees, costs of any settlement or judgment and claims of any and every kind whatsoever paid, incurred or suffered by, or asserted against, the LESSEE by any person or entity for, arising out of, the presence



on or under; or the escape, seepage, leakage, spillage, discharge, emission, discharging or release from the Premises during the Term of this Agreement and the period prior to the Term of this Agreement of any Substance (hazardous or otherwise) including, without limitation, any losses, liabilities, reasonable attorneys' fees, costs of any settlement or judgment or claims asserted or arising under the Comprehensive Environmental Response, Compensation and Liability Act, any federal, state or local so-called "Superfund" or "Super lien" laws, or any other applicable statute, law, ordinance, code, rule, regulation, order of decree regulating, relating to or imposing liability, including strict liability, or standards of conduct concerning any hazardous substance) unless such presence, escape, seepage, leakage, spillage, discharge, emission or release was caused by the LESSEE, or persons within the control of the LESSEE, its officers, employees, agents, invitees and/or licensees.

Environmental compliance shall not be limited to those items noted within this Agreement but shall include any current or future federal, state, or local law, statute or regulation, that may be required of LESSEE's operation, (storage or use of substances (hazardous or otherwise), activities of LESSEE's employees or contracted vendor's etc.). LESSEE shall provide LESSOR upon request copies of any plan, training program, training records, material safety data sheet or any other documentation required by said laws.

(h) The provisions of this Section shall survive the termination of this Agreement.

#### 47. INDEMNITY

To the extent allowed by law, LESSEE, shall protect, defend and hold LESSOR and the City of Wichita and its officers, agents and employees completely harmless from and against any and all liabilities, losses, suits, claims, judgments, fines or demands arising by reason of injury or death of any person or damage to any property, including all reasonable costs for investigation and defense thereof (including but not limited to attorney fees, court cost and expert fees), or other liability of any nature whatsoever arising out of or incident to this Agreement and/or the use or occupancy of the Premises or the acts or omissions of LESSEE's officers, agents, employees, contractors, subcontractors, licensees or invitees, regardless of where the injury, death or damage may occur, except to the extent such injury, death or damage is caused by the negligence of LESSOR. The LESSOR shall give to LESSEE reasonable notice of any such claims or actions.

To the extent allowed by law, LESSOR shall protect, defend and hold LESSEE, its officers, joint venture members, agents and employees completely harmless from and against all liabilities, losses, suits, claims, judgments, fines or demands arising by reason of injury to or death of any person or damage to any property, including all reasonable costs for investigation and defense thereof (including but not limited to attorney fees, court costs and expert fees), or other liability of any nature whatsoever arising out of or incident to this Agreement and/or the use or occupancy of the Premises or the acts or omissions of LESSOR's officers, agents, employees, contractors, subcontractors, licensees or invitees, regardless of where the injury, death or damage may occur, except to the extent such injury, death or damage is caused by the negligence of LESSEE. The LESSEE shall give LESSOR reasonable notice of any such claims or actions.

Should LESSEE, its employees, subcontractors, suppliers, agents, customers, and/or representatives cause any violations of federal, state or local law, regulation or ordinance, and should LESSOR be cited for a fine or penalty for such violation, LESSEE agrees to reimburse LESSOR for any monetary fine or penalty which may be imposed on LESSOR. However, nothing herein shall prevent the LESSEE from contesting the legality, validity or application of such fine or penalty to the full extent LESSEE may be lawfully entitled, nor require LESSOR to pursue such a contest on LESSEE's behalf.

The provisions of this Section shall survive the expiration or termination of this Agreement to the extent that they relate to liabilities, losses, suits, claims, judgments, fines or demands arising from or incident to events occurring during LESSEE's occupancy of the Premises. The LESSEE shall use counsel reasonably acceptable to LESSOR in carrying out its obligations in this Section.

#### **48. DAMAGE OR DESTRUCTION**

In the event that facilities or improvements on the Premises are damaged or destroyed in whole or in part by fire, lightning or any other peril or other casualty during the Term of this Agreement, this Agreement shall remain in full force and effect and LESSEE shall proceed with due diligence to repair, restore, rebuild or replace said damaged or destroyed property or parts thereof to as good a condition as all affected properties were in immediately prior to such damage or destruction, subject to such alterations as LESSEE may elect to make and are permitted in this Agreement. All proceeds from the insurance policies related to such damage or destruction shall be first applied to cover the cost of such repairs or restoration. In alternative, and in LESSOR's discretion to allow and LESSEE's election to exercise, LESSEE may be released from this Agreement upon payment of all demolition and removal costs for damaged or destroyed



improvements and payment to LESSOR of an amount equal to the fair market value of the property immediately prior to damage or destruction, less the proceeds from the insurance policies related to such damage or destruction received by LESSOR shall be applied for LESSEE's account so that it may pay such fair market value.

#### 49. CONDEMNATION

If, during the Term, title to, or the temporary use of, all or any part of the Premises shall be condemned by any authority exercising the power of eminent domain, LESSEE shall, within fifteen (15) calendar days after the date of entry of a final order in any eminent domain proceedings granting condemnation, notify LESSOR in writing as to the nature and extent of such condemnation and whether it is practicable for LESSEE to acquire or construct substitute improvements, or whether LESSEE shall elect to terminate this lease.

If LESSEE shall determine that such substitution is practicable and desirable and LESSOR shall agree thereto, LESSEE shall forthwith proceed with and complete with reasonable dispatch the acquisition or construction of such substitute improvements. In such case, any net proceeds received from any award or awards with respect to the Premises or any part thereof made in such condemnation or eminent domain proceeds shall be used and applied for the purpose of paying the cost of such substitution. Any proceeds not required for such costs shall be distributed to the Parties in pro-rata distributions as their interests may appear based upon Term remaining and the fair market value of each party's interest at the time the proceeds are received.

If LESSEE shall determine that it is not practicable and desirable to acquire or construct substitute improvements, any net proceeds shall be distributed to the Parties in pro-rata distributions as their interests may appear based upon the Term remaining, and the fair market value of each party's interest at the time the proceeds are received.

LESSOR shall cooperate fully with LESSEE in the handling and conduct of any prospective or pending condemnation proceedings with respect to the Premises or any part thereof. In no event shall LESSEE or LESSOR voluntarily settle or consent to the settlement of any prospective or pending condemnation proceedings with respect to the Premises without the mutual agreement and written consent of the other party to this Agreement.

## **50. MODIFICATIONS FOR GRANTING FAA FUNDS**

In the event that the LESSOR determines the Federal Aviation Administration requirements call for modifications or changes to this Agreement as a condition precedent to granting of funds for the improvement of the Airport, these modifications or changes shall supersede this Agreement and LESSEE agrees to consent to such amendments, modifications, revisions, supplements or deletions of any of the terms, conditions or requirements of this Agreement as may be reasonably required by the LESSOR to fully comply with federal grant assurances and directives and to obtain Federal Aviation Administration grants-in-aid, provided that no such changes shall materially alter the rights or obligations of LESSEE hereunder.

## **51. NONDISCRIMINATION**

The LESSEE agrees that it shall not discriminate or permit discrimination against any person on the basis of race, color, sex, religion, disability, age (except where age is a bona fide occupational qualification), national origin or ancestry in its operations or services, and its use or occupancy of property under this Agreement. The LESSEE agrees to comply with all applicable provisions of federal and state laws, regulations, or executive orders prohibiting discriminatory conduct.

## **52. GENERAL PROVISIONS**

**Maintenance, Repair, Direction and Control.** LESSOR reserves the right, but is not obligated to exercise the right, to maintain and keep in repair the landing area of the Airport and all publicly owned facilities of the Airport, together with the right to direct and control all activities of LESSEE in this regard. These areas shall include, but are not limited to, those areas which are necessary to serve the aeronautical users of the Airport, except that LESSOR shall not be obligated to maintain and keep in repair such areas of the Airport as may be leased to or under the control of Airport tenants, whether such area serves aeronautical users or otherwise.

**Operation of Airport by the United States of America.** This Agreement and all the provisions hereof shall be subject to whatever right the United States of America now has or in the future may have or acquire, affecting the control, operation, regulation and taking over of said Airport or the exclusive or nonexclusive use of the Airport by the United States during the time of war or national emergency.

**14 CFR Part 77 of Federal Aviation Regulations.** LESSEE agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations in the event future construction of a building, structure, or attachment thereto is planned for the Premises, or in the event of any planned modification or alteration of any present or future building or structure situated on the Premises. LESSEE by accepting this Agreement expressly agrees for itself, its successors and assigns, that it shall not erect nor permit the erection of any structure or object, nor permit the growth of any tree on the Premises which shall exceed such maximum height as may be stipulated by LESSOR. It is understood and agreed that applicable laws, codes, regulations or agreements concerning height restrictions shall govern the maximum height to be stipulated by LESSOR. In the event the aforesaid covenants are breached, LESSOR reserves the right to enter upon the Premises and to remove the offending structure or object, and cut down the offending tree, all of which shall be at the expense of LESSEE and without liability to LESSOR.

**Airspace.** There is hereby reserved to LESSOR, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Premises. This public right of flight shall include the right to cause or allow in said airspace, any noise inherent in the operation of any aircraft used for navigation or flight through the said airspace or landing at, taking off from or operation on the Airport. No liability on the part of LESSOR shall result from the exercise of this right.

**Easement for Flight.** LESSEE releases LESSOR from any present or future liability whatsoever and covenants not to sue LESSOR for damages or any other relief based directly or indirectly upon noise, light, vibrations, smoke, fumes, odors, air currents, electronic or other emissions occurring as a result of aviation or airport related operations at or otherwise associated with the Airport. This release and covenant includes but is not limited to claims for damages for physical or emotional injuries, discomfort, inconvenience, property damage, death, interference with use and enjoyment of property, nuisance, or inverse condemnation or for injunctive or other extraordinary or equitable relief. It is further agreed that LESSOR shall have no duty to avoid or mitigate such damages by, without limitation, setting aside or condemning buffer lands; rerouting air traffic, erecting sound or other barriers, establishing curfews, noise or other regulations, relocating airport facilities or operations or taking other measures, except to the extent, if any, that such actions are validly required by government authority. LESSOR reserves these rights from the Premises an easement for flight of aircraft in or adjacent to the airspace above the Premises and for the existence and imposition over, on and upon said Premises of noise, light, vibrations, smoke, fumes, odors, air currents, electronic or other emissions, discomfort,

inconvenience, interference with use and enjoyment, and any consequent reduction in market value which may occur directly or indirectly as a result of aviation, airport or airport-related operations at or otherwise associated with use of the Airport. LESSEE accepts the Premises subject to the risks and activities hereinabove described.

**Airport Hazards.** LESSEE by accepting this Agreement agrees for itself, its successors and assigns, that it shall not make use of the Premises in any manner which may interfere with the landing and taking off of aircraft from the Airport or otherwise constitute a hazard. In the event this Agreement Term is breached, LESSOR reserves the right to enter upon the Premises and cause the abatement of such interference at the expense of LESSEE without liability to LESSOR of any kind; provided, LESSEE shall have the first opportunity to abate such interference.

**Airport Rules and Regulations, Policies, and Standard Operating Procedures.** LESSOR shall have the right to adopt, amend and enforce reasonable airport rules and regulations, policies and standard operating procedures with respect to use of and the conduct and operation of the Airport, its buildings and facilities or any improvements within the present or future boundaries of the Airport, which LESSEE agrees to observe and obey.

**Federal Aviation Administration Requirements.** LESSOR and LESSEE agree that the requirements of the FAA set out below are approved by both Parties, and if applicable, LESSEE agrees to comply with all FAA requirements with respect to its operations, use of the Airport and this Agreement:

(a) The LESSEE, for itself and its representatives, successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the Land that in the event facilities are constructed, maintained or otherwise operated on the Premises for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the LESSEE shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

(b) The LESSEE, for itself and its representatives, successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the Land that: (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said Facilities, (2) that in the

construction of any improvements on, over, or under such Land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the LESSEE shall use the Premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

(c) The LESSEE assures that it shall undertake an affirmative action program if required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The LESSEE assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. The LESSEE assures that it shall require that its covered suborganizations provide assurances to the LESSEE that they similarly shall undertake affirmative action programs, and that they shall require assurances from their suborganizations, as required by 14 CFR Part 152, Subpart E, to the same effect.

(d) It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308 of the Federal Aviation Act of 1958.

(e) LESSEE agrees to furnish service on a fair, equal and not unjustly discriminatory basis to all users thereof, and to charge fair, reasonable and not unjustly discriminatory prices for each unit or service; PROVIDED, that LESSEE may make reasonable and nondiscriminatory discounts, rebates or other similar types of price reductions to volume purchasers.

(f) LESSOR reserves the right (but shall not be obligated to LESSEE) to maintain and keep in repair the landing area of the Airport and all publicly-owned facilities of the Airport, together with the right to direct and control all activities of LESSEE in this regard.

(g) LESSOR reserves the right further to develop or improve the landing area and all publicly-owned air navigation facilities of the Airport as it sees fit, regardless of the desires or views of LESSEE, and without interference or hindrance.

(h) LESSOR reserves the right to take any action it considers necessary to protect the aerial approaches of the Airport against obstruction, together with the right to prevent LESSEE from erecting, or permitting to be erected, any building or other structure on the Airport which, in the opinion of LESSOR, would limit the usefulness of the Airport or constitute a hazard to aircraft.

(i) During time of war or national emergency LESSOR shall have the right to enter into an agreement with the United States Government for military or naval use of part or all of the landing area, the publicly-owned air navigation facilities and/or other areas or facilities of the Airport. If any such agreement is executed, the provisions of this Agreement, insofar as they are inconsistent with the provisions of the agreement with the Government, shall be suspended.

(j) It is understood and agreed that the rights granted by this Agreement shall not be exercised in such a way as to interfere with or adversely affect the use, operation, maintenance or development of the Airport.

(k) There is hereby reserved to LESSOR, its successors and assigns, for the use and benefit of the public, a free and unrestricted right of flight for the passage of aircraft in the air space above the surface of the Premises herein conveyed, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft now known or hereafter used for navigation of or flight in the air, using said airspace or landing at, taking off from or operating on or about the Airport.

(l) This Agreement shall become subordinate to provisions of any existing or future agreement between the LESSOR and the United States of America or any agency thereof relative to the operation, development or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the Airport.

**Subordination to Agreements with the U.S. Government.** This Agreement is subject and subordinate to the provisions of any agreements heretofore or hereafter made between LESSOR and the United States Government relative to the operation or maintenance of the Airport, the execution of which has been required as a condition precedent to the transfer of federal rights or property to LESSOR for Airport purposes, or the expenditure of federal funds for the improvement or development of Airport, including the expenditure of federal funds for the development of Airport in accordance with the provisions of the Federal Aviation Act of 1958, as it has been amended from time to time. LESSOR covenants that it has no existing agreements with the United States Government in conflict with the express provisions hereof.

**Non-Waiver of Rights.** No waiver or default by either party of any of the terms, warranties, covenants and conditions hereof to be performed, kept and observed by the other party shall be construed as, or shall operate as, a waiver of any subsequent default of any of the terms, warranties, covenants or conditions herein contained, to be performed, kept and observed by the other party.

**Captions.** The captions/headings of the Sections of this Agreement are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope or intent of any provisions of this Agreement, and shall not be construed to affect in any manner the terms and provisions hereof or the interpretation or construction thereof.

**Severability and Invalid Provisions.** In the event any term, covenant, condition or provision herein contained is held to be invalid by any court of competent jurisdiction, the invalidity of any such term, covenant, condition or provision shall in no way affect any other term, covenant, condition or provision herein contained; provided, however, that the invalidity of any such term, covenant, condition or provision does not materially prejudice either the LESSOR or the LESSEE in their respective rights and obligations contained in the valid terms, covenants, conditions or provisions in this Agreement.

**Waiver of Claims.** LESSOR and LESSEE hereby waive any claim against the other and their officers or employees for loss of anticipated profits, consequential or incidental damages, or claim for attorney fees caused by or resulting in any suit or proceedings directly or indirectly attacking the validity of this Agreement or any part thereof, or the manner in which it is executed or performed, or by any judgment or award in any legal proceeding declaring this Agreement null, void or voidable, or delaying the same of any part thereof, from being carried out. This waiver extends to all claims, whether the supporting legal theory lies in common law or has a statutory basis.

**Incorporation of Exhibits.** All exhibits referred to in this Agreement are intended to be and are hereby specifically made a part of this Agreement.

**Incorporation of Required Provisions.** The Parties incorporate in this Agreement by this reference all provisions lawfully required to be contained herein by any governmental body or agency.

**Non-Liability of Agents and Employees.** No member, manager, officer, agent or employee of either party to this Agreement shall be charged personally, or held contractually liable by or to the other party under the terms or provisions of this Agreement, or because of any breach thereof or because of its or their execution or attempted execution.

**Successors and Assigns Bound.** This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the Parties hereto where permitted by this Agreement.

**Time of Essence.** Time is of the essence in this Agreement.



**Relationship of the Parties.** It is understood LESSEE is not in any way or for any purpose a partner or joint venturer with or an agent of LESSOR. LESSEE shall act as an independent contractor in the performance of its duties pursuant to this Agreement.

**Interpretation.** LESSOR and LESSEE hereby agree that this Agreement shall not be construed or interpreted in favor of either party on the basis of preparation.

**Kansas Laws to Govern.** This Agreement is created in the State of Kansas and the terms and conditions herein contained shall at all times be governed, interpreted and construed under and in accordance with the laws of the State of Kansas, and venue for resolution of any issue pertaining to this Agreement shall be in Sedgwick County, Kansas.

### **53. FORCE MAJEURE**

Anything contained in this Agreement to the contrary notwithstanding, neither Party shall be deemed in default with respect to the performance of any of the terms, covenants, and conditions of this Agreement if non-performance shall be due to any "Act of God" or "Force Majeure" which terms are defined for purposes of this Agreement as strikes, lockouts, civil commotion, riots, material or labor restrictions by any governmental authority, shortage of materials, explosions, earthquakes, fire, floods, catastrophic weather events, acts of the public enemy, wars, acts of terrorism, insurrections. The occurrence of any Act of God or Force Majeure shall be excused for the period of the delay thus occasioned and the period for performance of any such acts shall be extended for a period equivalent to the period of such delay.

### **54. THIRD PARTY RIGHTS**

It is agreed between the Parties that it is not intended by any of the provisions of this Agreement to create for the public or any member thereof the status of a third-party beneficiary, or to authorize anyone not a party to this Agreement to maintain a suit for damages pursuant to the terms or provisions of this Agreement.



## **55. QUIET ENJOYMENT**

LESSOR agrees that, on payment of the rentals and fees and performance of the terms, covenants, conditions and agreements on the part of LESSEE to be performed in this Agreement, LESSEE shall have the right to peaceably occupy and enjoy the Premises, subject however, to the provisions otherwise set out in this Agreement.

## **56. HOLD OVER**

In the event LESSEE holds over the lease of the Premises, any rights granted after expiration of this Agreement without any written renewal of it shall not be deemed to operate as a renewal or extension of this Agreement, but shall only create a month-to-month arrangement, which may be terminated within thirty (30) day notice by LESSOR or LESSEE.

## **57. SURRENDER OF POSSESSION AND RESTORATION**

LESSEE shall yield and deliver to LESSOR possession of the Premises at the expiration or termination of this Agreement in good condition in accordance with LESSEE's obligations in this Agreement, except for reasonable wear and tear, and LESSEE is relieved of financial responsibility for fire or other casualty to the extent that LESSOR has received full compensation for its losses from insurance proceeds. LESSEE shall, at its expense, deliver the Premises in good order and condition, including:

- a) cleaning and hauling away all supplies and trash;
- b) removing by legal means all materials or other substances classified as hazardous;
- c) leaving in operating condition all bulbs and ballasts;
- d) replacing all broken glass; and
- e) return to LESSOR all keys to all doors and gates.

LESSEE, at LESSEE's expense, shall remove prior to the termination or expiration of this Agreement all trade fixtures and personal property placed by LESSEE on or about the Premises herein leased, subject to LESSEE's repairing any damage thereto caused by such removal and

subject to any valid lien which LESSOR may have on that property for unpaid rents, expenses or fees.

In the event LESSEE does not remove all of its trade fixtures and personal property within thirty (30) calendar days after the termination of this Agreement, any remaining property shall be considered abandoned and LESSOR may take possession and use for its own purposes, or alternatively dispose of said property without any further responsibility or liability to LESSEE. The net disposal costs of such property shall be the financial obligation of LESSEE.

#### **58. ENTIRE AGREEMENT; SUPERCEDES PRIOR LEASES AND ARRANGEMENTS**

The Parties understand and agree that this instrument contains the entire agreement between them. The Parties hereto further understand and agree that the other party and its agents have made no representations or promises with respect to this Agreement or the making or entry into this Agreement, except as expressed in this Agreement, and that no claim or liability or cause for termination shall be asserted by either party against the other and such party shall not be liable by reason of the making of any representations or promises not expressly stated in this Agreement, any other written or oral agreement with the other being expressly waived.

The individuals executing this Agreement personally warrant that they have full authority to execute this Agreement on behalf of the entity for which they are acting herein.

The Parties hereto acknowledge that they have thoroughly read this Agreement, including any exhibits or attachments hereto, and have sought and received whatever competent advice and counsel deemed necessary for them to form a full and complete understanding of all rights and obligations herein.

As of the effective date hereof, this Agreement shall supercede all prior agreements and arrangements between the Parties as of the effective date hereof. Specifically, the following documents are of no further force or effect as of such effective date:

Bond Lease 3560/3520 North Jabara Road dated May 1, 1983 MCA FBO/Hangars #1, #2 and #3; Lease 3510 North Jabara Road dated November 19, 1984 MCA Hangar #4; Lease 3420 N. Jabara Road dated June 19, 1995 MCA Hangar #5; Lease 3416 North Jabara Road dated November 6, 1995 MCA Hangar #6; Lease 3410/3406 North Jabara Road dated October 6, 1996 MCA Hangars #7 & #8; and Lease 3740 North Jabara Road dated August 22, 2000 MCA Hangar #9.

**59. AMENDMENT**

No amendment, modification, or alteration of the Terms of this Agreement shall be binding unless the same is in writing, dated subsequent to the date hereof, and duly executed by the Parties hereto.

**60. APPROVAL, CONSENT, DIRECTION OR DESIGNATION BY LESSOR**

Wherever under this Agreement, approvals, consents, directions, or designations are required or permitted, such approvals, consents, directions, or designations required or permitted under this Agreement shall be performed by the Director of Airports, or his/her authorized representative. Approvals, consents, directions, or designations made at any time by the Director of Airports, and from time to time, may be modified as to future matters by notice from LESSOR to LESSEE.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement the day and year first above written.

ATTEST:

THE WICHITA AIRPORT AUTHORITY  
WICHITA, KANSAS

By

  
Karen Sublett, City Clerk

  
Jeff Longwell, President



By

  
Victor D. White, Director of Airports

Date December 22, 2015

ATTEST:

MIDWEST CORPORATE AVIATION, INC.

By *Robert M. Kaul*

By *Marvin E. Autry*  
Marvin Autry, President  
"LESSEE"

Date: 7 Dec, 2015

APPROVED AS TO FORM:

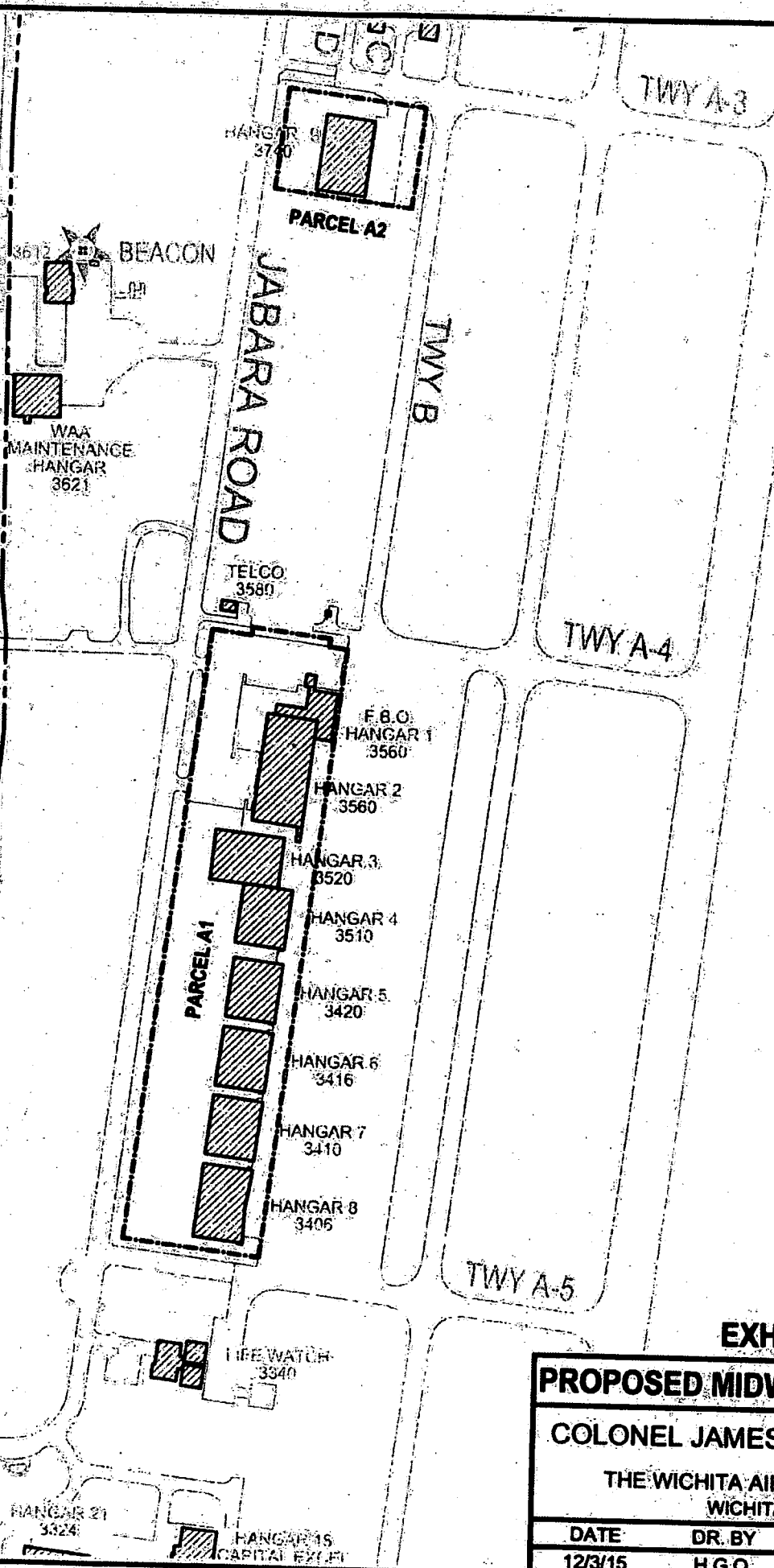
*Jennifer Magana*  
Jennifer Magana,  
City Attorney and Director of Law

Date: 12-8, 2015

EXHIBITS

Exhibit A      Facilities  
Exhibit B      Aircraft Parking Ramp

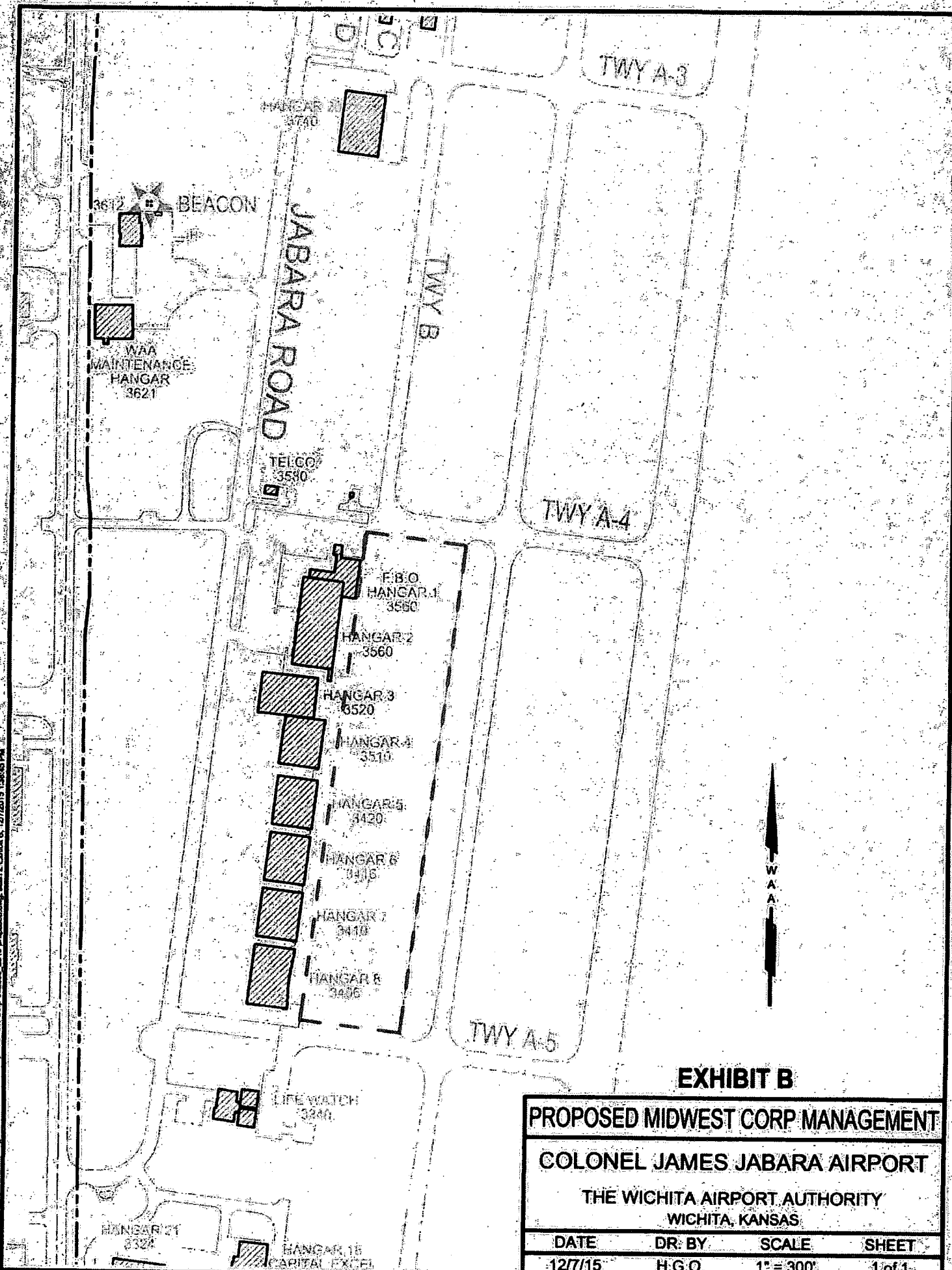
D:\Drawing\A0404214.dwg - James Midwest Corp Leases 2015 proposed.dwg, Total Boxes A, 12/22/15 2:23:11 PM



# EXHIBIT A

PROPOSED MIDWEST CORP LEASE			
COLONEL JAMES JABARA AIRPORT			
THE WICHITA AIRPORT AUTHORITY WICHITA, KANSAS			
DATE	DR. BY	SCALE	SHEET
12/3/15	H.G.O.	1" = 200'	1 of 1

D:\Drawing\JABARA\J216-Budget\216-Proposed\216-Proposed.dwg, Jan 22, 2015 1:28:45 PM



### EXHIBIT B

PROPOSED MIDWEST CORP MANAGEMENT			
COLONEL JAMES JABARA AIRPORT			
THE WICHITA AIRPORT AUTHORITY			
WICHITA, KANSAS			
DATE	DR. BY	SCALE	SHEET
12/7/15	H.G.O.	1" = 300'	1 of 1

**City of Wichita  
City Council Meeting  
April 19, 2016**

**TO:** Wichita Airport Authority

**SUBJECT:** Pavement Condition Inventory  
Wichita Dwight D. Eisenhower National Airport

**INITIATED BY:** Department of Airports

**AGENDA:** Wichita Airport Authority (Consent)

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**Recommendation:** Approve the budget, grant application, and contract.

**Background:** The pavement condition inventory is included in the Capital Improvement Program.

**Analysis:** In order to comply with Federal Aviation Administration (FAA) grant assurances, it is necessary to conduct periodic, in-depth airfield pavement condition inventories following FAA Advisory Circular 150/5380-68.

The Staff Screening and Selection Committee interviewed three firms and selected Applied Pavement Technology, Inc. based on qualifications, experience and schedule to provide the professional services for the 2016 evaluation.

**Financial Considerations:** The contract amount for professional services with Applied Pavement Technology, Inc. is \$195,349. The project budget requested is \$200,000. The FAA has indicated that grant funding is currently available from the FAA Airport Improvement Program (AIP). This project will be funded with 90 percent FAA Grant funds, and the remainder with General Obligation bonds paid from Airport revenue.

**Legal Considerations:** The Law Department has approved the contract as to form.

**Recommendations/Actions:** It is recommended the Wichita Airport Authority approve the budget, contract, and authorize necessary signatures, as well as authorize the Director of Airports to sign all the documents related to the grants.

**Attachments:** Applied Pavement Technology, Inc. contract and grant application.

# **Application for Federal Assistance SF-424**

* 1. Type of Submission <input type="checkbox"/> Preapplication <input type="checkbox"/> Application <input type="checkbox"/> Changed/Corrected Application		* 2. Type of Application <input type="checkbox"/> New <input type="checkbox"/> Continuation <input type="checkbox"/> Revision		* If Revision, select appropriate letter(s):  * Other (Specify)	
* 3. Date Received:		4. Application Identifier:			
5a. Federal Entity Identifier:			* 5b. Federal Award Identifier:		
<b>State Use Only:</b>					
6. Date Received by State:			7. State Application Identifier:		
<b>8. APPLICANT INFORMATION:</b>					
* a. Legal Name:					
* b. Employer/Taxpayer Identification Number (EIN/TIN):			*c. Organizational DUNS:		
<b>d. Address:</b>					
* Street1: Street 2: * City: County: * State: Province: Country: <div style="text-align: right;">*Zip/ Postal Code:</div>					
<b>e. Organizational Unit:</b>					
Department Name:			Division Name:		
<b>f. Name and contact information of person to be contacted on matters involving this application:</b>					
Prefix:		First Name:			
Middle Name:					
* Last Name:					
Suffix:					
Title:					
Organizational Affiliation:					
* Telephone Number:			Fax Number:		
* Email:					



**Application for Federal Assistance SF-424**

\*9. Type of Applicant 1: Select Applicant Type:

Type of Applicant 2: Select Applicant Type:

Type of Applicant 3: Select Applicant Type:

\* Other (specify):

\* 10. Name of Federal Agency:

11. Catalog of Federal Domestic Assistance Number:

20.106

CFDA Title:

Airport Improvement Program

\*12. Funding Opportunity Number:

Title:

13. Competition Identification Number:

Title:

14. Areas Affected by Project (Cities, Counties, States, etc.):

\* 15. Descriptive Title of Applicant's Project:

**Attach supporting documents as specified in agency instructions.**

**Application for Federal Assistance SF-424****16. Congressional Districts Of:**

\*a. Applicant:

\*b. Program/Project:

Attach an additional list of Program/Project Congressional Districts if needed.

**17. Proposed Project:**

\*a. Start Date:

\*b. End Date:

**18. Estimated Funding (\$):**

\*a. Federal \_\_\_\_\_

\*b. Applicant \_\_\_\_\_

\*c. State \_\_\_\_\_

\*d. Local \_\_\_\_\_

\*e. Other \_\_\_\_\_

\*f. Program Income \_\_\_\_\_

\*g. TOTAL \_\_\_\_\_

**\*19. Is Application Subject to Review By State Under Executive Order 12372 Process?**☐ a. This application was made available to the State under the Executive Order 12372 Process for review on \_\_\_\_\_☐ b. Program is subject to E.O. 12372 but has not been selected by the State for review.☐ c. Program is not covered by E.O. 12372**\*20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes", provide explanation on next page.)**☐ Yes☐ No

21. \*By signing this application, I certify (1) to the statements contained in the list of certifications\*\* and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances\*\* and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 18, Section 1001)

☐ \*\* I AGREE

\*\* The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions.

**Authorized Representative:**

Prefix:

\*First Name:

Middle Name:

\*Last Name:

Suffix:

\*Title:

\*Telephone Number:

Fax Number:

\* Email:

\*Signature of Authorized Representative:

\*Date Signed:

**Application for Federal Assistance SF-424**

**\*Applicant Federal Debt Delinquency Explanation**

The following field should contain an explanation if the Applicant organization is delinquent on any Federal Debt. Maximum number of characters that can be entered is 4,000. Try and avoid extra spaces and carriage returns to maximize the availability of space.

# INSTRUCTIONS FOR THE SF-424

Public reporting burden for this collection of information is estimated to average 60 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0043), Washington, DC 20503.

**PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.**

This is a standard form (including the continuation sheet) required for use as a cover sheet for submission of preapplications and applications and related information under discretionary programs. Some of the items are required and some are optional at the discretion of the applicant or the Federal agency (agency). Required items are identified with an asterisk on the form and are specified in the instructions below. In addition to the instructions provided below, applicants must consult agency instructions to determine specific requirements.

Item	Entry
1.	<b>Type of Submission:</b> (Required) Select one type of submission in accordance with agency instructions. <ul style="list-style-type: none"> <li>• Preapplication</li> <li>• Application</li> <li>• Changed/Corrected Application – If requested by the agency, check if this submission is to change or correct a previously submitted application. Unless requested by the agency, applicants may not use this to submit changes after the closing date.</li> </ul>
2.	<b>Type of Application:</b> (Required) Select one type of application in accordance with agency instructions. <ul style="list-style-type: none"> <li>• New – An application that is being submitted to an agency for the first time.</li> <li>• Continuation - An extension for an additional funding/budget period for a project with a projected completion date. This can include renewals.</li> <li>• Revision - Any change in the Federal Government's financial obligation or contingent liability from an existing obligation. If a revision, enter the appropriate letter(s). More than one may be selected. If "Other" is selected, please specify in text box provided. <ul style="list-style-type: none"> <li>A. Increase Award</li> <li>B. Decrease Award</li> <li>C. Increase Duration</li> <li>D. Decrease Duration</li> <li>E. Other (specify)</li> </ul> </li> </ul>
3.	<b>Date Received:</b> Leave this field blank. This date will be assigned by the Federal agency.
4.	<b>Applicant Identifier:</b> Enter the entity identifier assigned by the Federal agency, if any, or applicant's control number, if applicable.
5a.	<b>Federal Entity Identifier:</b> Enter the number assigned to your organization by the Federal Agency, if any.
5b.	<b>Federal Award Identifier:</b> For new applications leave blank. For a continuation or revision to an existing award, enter the previously assigned Federal award identifier number. If a changed/corrected application, enter the Federal Identifier in accordance with agency instructions.
6.	<b>Date Received by State:</b> Leave this field blank. This date will be assigned by the State, if applicable.
7.	<b>State Application Identifier:</b> Leave this field blank. This identifier will be assigned by the State, if applicable.
8.	<b>Applicant Information:</b> Enter the following in accordance with agency instructions: <ol style="list-style-type: none"> <li><b>Legal Name:</b> (Required) Enter the legal name of applicant that will undertake the assistance activity. This is the name that the organization has registered with the Central Contractor Registry. Information on registering with CCR may be obtained by visiting the Grants.gov website.</li> <li><b>Employer/Taxpayer Number (EIN/TIN):</b> (Required): Enter the Employer or Taxpayer Identification Number (EIN or TIN) as assigned by the Internal Revenue Service. If your organization is not in the US, enter 44-4444444.</li> <li><b>Organizational DUNS:</b> (Required) Enter the organization's DUNS or DUNS+4 number received from Dun and Bradstreet. Information on obtaining a DUNS number may be obtained by visiting the Grants.gov website.</li> <li><b>Address:</b> Enter the complete address as follows: Street address (Line 1 required), City (Required), County, State (Required, if country is US), Province, Country (Required), Zip/Postal Code (Required, if country is US).</li> <li><b>Organizational Unit:</b> Enter the name of the primary organizational unit (and department or division, if applicable) that will undertake the assistance activity, if applicable.</li> <li><b>Name and contact information of person to be contacted on matters involving this application:</b> Enter the name (First and last name required), organizational affiliation (if affiliated with an organization other than the applicant organization), telephone number (Required), fax number, and email address (Required) of the person to contact on matters related to this application.</li> </ol>
9.	<b>Type of Applicant:</b> (Required) Select up to three applicant type(s) in accordance with agency instructions: <ol style="list-style-type: none"> <li>State Government</li> <li>County Government</li> <li>City or Township Government</li> <li>Special District Government</li> <li>Regional Organization</li> <li>U.S. Territory or Possession</li> <li>Independent School District</li> <li>Public/State Controlled Institution of Higher Education</li> <li>Indian/Native American Tribal Government (Federally Recognized)</li> <li>Indian/Native American Tribal Government (Other than Federally Recognized)</li> <li>Indian/Native American Tribally Designated Organization</li> <li>Public/Indian Housing Authority</li> <li>Nonprofit with 501C3 IRS Status (Other than Institution of Higher Education)</li> <li>Nonprofit without 501C3 IRS Status (Other than Institution of Higher Education)</li> <li>Private Institution of Higher Education</li> <li>Individual</li> <li>For-Profit Organization (Other than Small Business)</li> <li>Small Business</li> <li>Hispanic-serving Institution</li> </ol>

Item	Entry
	<p>T. Historically Black Colleges and Universities (HBCUs)</p> <p>U. Tribally Controlled Colleges and Universities (TCCUs)</p> <p>V. Alaska Native and Native Hawaiian Serving Institutions</p> <p>W. Non-domestic (non-US) Entity</p> <p>X. Other (specify)</p>
10.	<b>Name Of Federal Agency:</b> (Required) Enter the name of the Federal agency from which assistance is being requested with this application.
11.	<b>Catalog Of Federal Domestic Assistance Number/Title:</b> Enter the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested, as found in the program announcement, if applicable.
12.	<b>Funding Opportunity Number/Title:</b> Enter the Funding Opportunity Number and title of the opportunity under which assistance is requested, as found in the program announcement.
13.	<b>Competition Identification Number/Title:</b> Enter the Competition Identification Number and title of the competition under which assistance is requested, if applicable.
14.	<b>Areas Affected By Project:</b> List the areas or entities using the categories (e.g., cities, counties, states, etc.) specified in agency instructions. Use the continuation sheet to enter additional areas, if needed.
15.	<b>Descriptive Title of Applicant's Project:</b> (Required) Enter a brief descriptive title of the project. If appropriate, attach a map showing project location (e.g., construction or real property projects). For preapplications, attach a summary description of the project.
16.	<p><b>Congressional Districts Of:</b> (Required) <b>16a.</b> Enter the applicant's Congressional District, and <b>16b.</b> Enter all District(s) affected by the program or project. Enter in the format: 2 characters State Abbreviation – 3 characters District Number, e.g., CA-005 for California 5<sup>th</sup> district, CA-012 for California 12<sup>th</sup> district, and NC-103 for North Carolina's 103<sup>rd</sup> district.</p> <ul style="list-style-type: none"> <li>• If all congressional districts in a state are affected, enter "all" for the district number, e.g., MD-all for all congressional districts in Maryland.</li> <li>• If nationwide, i.e. all districts within all states are affected, enter US-all.</li> <li>• If the program/project is outside the US, enter 00-000.</li> </ul>
17.	<b>Proposed Project Start and End Dates:</b> (Required) Enter the proposed start date and end date of the project.
18.	<b>Estimated Funding:</b> (Required) Enter the amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines, as applicable. If the action will result in a dollar change to an existing award, indicate only the amount of the change. For decreases, enclose the amounts in parentheses.
19.	<b>Is Application Subject to Review by State Under Executive Order 12372 Process?</b> Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process. Select the appropriate box. If "a." is selected, enter the date the application was submitted to the State.
20.	<b>Is the Applicant Delinquent on any Federal Debt?</b> (Required) Select the appropriate box. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes. If yes, include an explanation on the continuation sheet.
21.	<p><b>Authorized Representative:</b> (Required) To be signed and dated by the authorized representative of the applicant organization. Enter the name (First and last name required), title (Required), telephone number (Required), fax number, and email address (Required) of the person authorized to sign for the applicant.</p> <p>A copy of the governing body's authorization for you to sign this application as the official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)</p>



U.S. Department  
of Transportation  
**Federal Aviation  
Administration**

## **FAA Form 5100-101, Application for Federal Assistance (Planning Projects)**

### **Paperwork Reduction Act Statement**

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number. The OMB Control Number for this information collection is 2120-0569. Public reporting for this collection of information is estimated to be approximately 28 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing and reviewing the collection of information. All responses to this collection of information are required under 49 U.S.C. Section 47105 to retain a benefit and to meet the reporting requirements of 2 CFR 200; no assurance of confidentiality is provided. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the FAA at: 800 Independence Ave. SW, Washington, DC 20591, Attn: Information Collection Clearance Officer, ASP-110.

### **INSTRUCTIONS FOR FORM 5100-101, Application for Federal Assistance (Planning Projects)**

#### **PART II – PROJECT APPROVAL INFORMATION**

Negative answers will not require an explanation unless the federal agency requests more information at a later date. Provide supplementary data for all "Yes" answers in the space provided in accordance with the following instructions.

**Item 1** - Provide the name of the governing body establishing the priority system and the priority rating assigned to this project.

**Item 2** - Provide the name of the agency or board which issued the clearance and attach the documentation of status or approval

**Item 3** - Attach the clearinghouse comments for the application in accordance with the instructions contained in Office of Management and Budget Circular No. A-95. If comments were submitted previously with a preapplication, do not submit them again, but any additional comments received from the clearinghouse should be submitted with this application.

**Item 4** - Furnish the name of the approving agency and the approval date.

**Item 5** - Show whether the approved comprehensive plan is State, local, or regional, or if none of these, explain the scope of the plan. Give the location where the approved plan is available for examination and state whether this project is in conformance with the plan.

**Item 6** - Show the Federal population residing or working on the federal installation that will benefit from this project.

**Item 7** - Show the percentage of the project work that will be conducted on federally-owned or leased land. Give the name of the Federal installation and its location.

**Item 8** - Briefly describe the possible beneficial and/or harmful impact on the environment because of the proposed project. If an adverse environment impact is anticipated, explain what action will be taken to minimize the impact. Federal agencies will provide separate instructions if additional data is needed.

**Item 9** - State the number of individuals, families, businesses, or farms this project will displace. Federal agencies will provide separate instructions if additional data is needed.

**Item 10** - Show the Federal Domestic Assistance Catalog number, the program name, the type of assistance, the status and amount of each project where there is related previous, pending, or anticipated assistance. Use additional sheets, if needed.

### **PART III – BUDGET INFORMATION**

This form section is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines, which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may not require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

#### **Section A. Budget Summary**

##### **Lines 1-4, Columns (a) and (b).**

For applications pertaining to a single Federal grant program (Federal Domestic Assistance Catalog number) and not requiring a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a single program requiring budget amounts by multiple functions of activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs requires a breakdown by function or activity, enter the catalog program title on each line in Column (a) and the respective catalog number on each line in Column (b).

For applications pertaining to multiple programs where one or more programs require a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

**Lines 1-4, Columns (c) through (g).**

For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds that will remain un-obligated at the end of the grant-funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

**Line 5** - Show the totals for all columns used.

**Section B. Budget Categories**

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1-4, Column (a), Section A. When additional sheets were prepared for Section A, provide similar column headings on each sheet. For each program, function, or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

**Lines 6 a-h** - Show the estimated amount for each direct cost budget (object class) category for each column with program, function, or activity heading.

**Line 6i** - Show the totals of Lines 6a to 6h in each column.

**Line 6j** - Show the amount of indirect cost. Refer to Office of Management and Budget Circular No. A-87.

**Line 6k** - Enter the total amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5.

For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1) - (4), Line 6k should be the same as the sum of the amounts in Section A, Column (e) and (f) on Line 5. When additional sheets were prepared, the last two sentences apply only to the first page with summary totals.

**Line 7** - Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the Federal grantor agency in determining the total amount of the grant.

**Section C. Source of Non-Federal Resources**

**Line 8-11** - Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet. (See Attachment F, Office of Management and Budget Circular No. A-102.)

**Column (a)** - Enter the program titles identical to Column (a), Section A, A breakdown by function or activity is not necessary.

**Column (b)** - Enter the amount of cash and in-kind contributions to be made by the applicant as shown in Section A. (See also Attachment F, Office of Management and Budget Circular No. A-102).

**Column (c)** - Enter the State contribution if the applicant is not a State or State agency. Applicants that are a State or State agencies should leave this column blank.

**Column (d)** - Enter the amount of cash and inn-kind contributions to be made from all other sources.



**Column (e)** - Enter the totals of Columns (b), (c), and (d).

**Line 12** - Enter the total for each of Columns (b)-(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

#### **Section D. Forecasted Cash Needs**

**Line 13** - Enter the amount of cash needed by quarter from the grantor agency during the first year.

**Line 14** - Enter the amount of cash from all other sources needed by quarter during the first year.

**Line 15** - Enter the totals of amounts on Lines 13 and 14.

#### **Section E. Budget Estimates of Federal Funds Needed for Balance of the Project**

**Lines 16 - 19** - Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuing grant applications, enter in the proper columns amounts of Federal funds, which will be needed to complete the program or project over the succeeding funding periods (usually in years). This Section need not be completed for amendments, changes, or supplements to funds for the current year of existing grants. If more than four lines are needed to list the program titles, submit additional schedules, as needed.

**Line 20** - Enter the total for each of the Columns (b) - (e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

#### **Section F. Other Budget Information**

**Line 21** - Use this space to explain amounts for individual direct object cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

**Line 22** - Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

**Line 23** - Provide any other explanations required herein or any other comments deemed necessary

### **PART IV – PROGRAM NARRATIVE**

Prepare the program narrative statement in accordance with the following instructions for all new grant programs. Requests for supplemental assistance should be responsive to Item 5b only. Requests for continuation or refunding or other changes of an approved project should be responsive to Item 5c only.

#### **1. OBJECTIVES AND NEED FOR THIS ASSISTANCE.**

Pinpoint any relevant physical, economic, social, financial, institutional, or other problems requiring a solution.

Demonstrate the need for assistance and state the principal and subordinate objectives of the project. Supporting documentation or other testimonies from concerned interests other than the applicant may be used. Any relevant data based on planning studies should be included or footnoted.

#### **2. RESULTS OR BENEFITS EXPECTED.**

Identify results and benefits to be derived. For example, include a description of who will occupy the facility and show how the facility will be used. For land acquisition or development projects, explain how the project will benefit the public.

#### **3. APPROACH**

- a. Outline a plan of action pertaining to the scope and detail of how the proposed work will be accomplished for each grant program. Cite factors, which might accelerate or decelerate the work, and your reason for taking this approach as opposed to others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvements.

- b. Provide each grant program monthly or quarterly quantitative projections of the accomplishments to be achieved, if possible. When accomplishments cannot be quantified, list the activities in chronological order to show the schedule of accomplishments and their target dates.
- c. Identify the kinds of data to be collected and maintained, and discuss the criteria to be used to evaluate the results and success of the project. Explain the methodology that will be used to determine if the needs identified and discussed are being met and if the results and benefits identified in Item 2 are being achieved.
- d. List each organization, cooperator, consultant, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution.

#### **4. GEOGRAPHIC LOCATION.**

Give a precise location of the project and area to be served by the proposed project. Maps or other graphic aids may be attached.

#### **5. IF APPLICABLE, PROVIDE THE FOLLOWING INFORMATION:**

- a. Describe the relationship between this project and other work planned, anticipated, or underway under the Federal Assistance listed under Part II, Section A, Item 10.
- b. Explain the reason for all requests for supplemental assistance and justify the need for additional funding.
- c. Discuss accomplishments to date and list in chronological order a schedule of accomplishments, progress, or milestones anticipated with the new funding re-request. If there have been significant changes in the project objectives, location, approach or time delays, explain and justify. For other requests for changes or amendments, explain the reason for the change(s). If the scope or objectives have changed or an extension of time is necessary, explain the circumstances and justify. If the total budget has been exceeded or if individual budget items have changed more than the prescribed limits contained in Attachment K, Office of Management and Budget Circular No. A-102, explain and justify the change and its effect on the project.

## Application for Federal Assistance (Planning Projects)

### PART II – PROJECT APPROVAL INFORMATION

<b>Item 1.</b> Does this assistance request require State, local, regional, or other priority rating?  <input type="checkbox"/> Yes <input type="checkbox"/> No	Name of Governing Body:  Priority:
<b>Item 2.</b> Does this assistance request require State, or local advisory, educational or health clearances?  <input type="checkbox"/> Yes <input type="checkbox"/> No	Name of Agency or Board:  (Attach Documentation)
<b>Item 3.</b> Does this assistance request require clearinghouse review in accordance with OMB Circular A-95?  <input type="checkbox"/> Yes <input type="checkbox"/> No	(Attach Comments)
<b>Item 4.</b> Does this assistance request require State, local, regional or other planning approval?  <input type="checkbox"/> Yes <input type="checkbox"/> No	Name of Approving Agency:  Date:
<b>Item 5.</b> Is the proposed project covered by an approved comprehensive plan?  <input type="checkbox"/> Yes <input type="checkbox"/> No	Check one:   State <input type="checkbox"/> Local <input type="checkbox"/> Regional <input type="checkbox"/>  Location of Plan:
<b>Item 6.</b> Will the assistance requested serve a Federal installation?  <input type="checkbox"/> Yes <input type="checkbox"/> No	Name of Federal Installation:  Federal Population benefitting from Project:
<b>Item 7.</b> Will the assistance requested be on Federal land or installation?  <input type="checkbox"/> Yes <input type="checkbox"/> No	Name of Federal Installation:  Location of Federal Land:  Percent of Project:        %
<b>Item 8.</b> Will the assistance requested have an impact or effect on the environment?  <input type="checkbox"/> Yes <input type="checkbox"/> No	(See instruction for additional information to be provided)
<b>Item 9.</b> Will the assistance requested cause the displacement of individuals, families, businesses, or farms?  <input type="checkbox"/> Yes <input type="checkbox"/> No	Number of: Individuals:    ____ Families:        ____ Businesses:    ____ Farms:            ____
<b>Item 10.</b> Is there other related Federal assistance on this project previous, pending, or anticipated?  <input type="checkbox"/> Yes <input type="checkbox"/> No	(See instructions for additional information to be provided.)

## PART III – BUDGET INFORMATION

### SECTION A – BUDGET SUMMARY

Grant Program, Function or Activity (a)	Federal Catalog No. (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		\$	\$	\$	\$	\$
2.						
3.						
4.						
5. TOTALS		\$	\$	\$	\$	\$

### SECTION B – BUDGET CATEGORIES

6. Object Class Categories	Grant Program, Function or Activity				Total
	(1)	(2)	(3)	(4)	(5)
a. Personnel	\$	\$	\$	\$	\$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges					
j. Indirect Charges					
k. TOTALS	\$	\$	\$	\$	\$
7. Program Income	\$	\$	\$	\$	\$

### SECTION C – NON-FEDERAL RESOURCES

(a) GRANT PROGRAM	(b) APPLICANT	(c) STATE	(d) OTHER SOURCES	(e) TOTALS
8.	\$	\$	\$	\$
9.				
10.				
11.				
12. TOTALS	\$	\$	\$	\$

## SECTION D – FORECASTED CASH NEEDS

	Total for 1 <sup>st</sup> Year	1 <sup>st</sup> Quarter	2 <sup>nd</sup> Quarter	3 <sup>rd</sup> Quarter	4th Quarter
13. <b>Federal</b>	\$	\$	\$	\$	\$
14. <b>Non-Federal</b>					
15. <b>TOTAL</b>	\$	\$	\$	\$	\$

## SECTION E – BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) GRANT PROGRAM	FUTURE FUNDING PERIODS (YEARS)			
	(b) FIRST	(c) SECOND	(d) THIRD	(e) FOURTH
16.	\$	\$	\$	\$
17.				
18.				
19.				
20. TOTALS	\$	\$	\$	\$

## SECTION F – OTHER BUDGET INFORMATION

(Attach additional sheets if necessary)

21. Direct Charges:	
22. Indirect Charges:	
23. Remarks:	

## PART IV PROGRAM NARRATIVE (Attach per instructions)

**PART IV - PROGRAM NARRATIVE**  
(Suggested Format)

<b>PROJECT:</b>
<b>AIRPORT:</b>
<b>1. Objective:</b>
<b>2. Benefits Anticipated:</b>
<b>3. Approach:</b> <i>(See approved Scope of Work in Final Application)</i>
<b>4. Geographic Location:</b>
<b>5. If Applicable, Provide Additional Information:</b>
<b>6. Sponsor's Representative:</b> <i>(include address &amp; telephone number)</i>

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## Drug-Free Workplace Airport Improvement Program Sponsor Certification

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Sponsor: Wichita Airport Authority

Airport: Wichita Dwight D. Eisenhower National Airport

Project Number: 3-20-0088-0071-2016

Description of Work: Pavement Condition Inventory

### Application

49 USC § 47105(d) authorizes the Secretary to require certification from the sponsor that it will comply with the statutory and administrative requirements in carrying out a project under the Airport Improvement Program (AIP). General requirements on the drug-free workplace within federal grant programs are described in 2 CFR part 182. Sponsors are required to certify they will be, or will continue to provide, a drug-free workplace in accordance with the regulation. The AIP project grant agreement contains specific assurances on the Drug-Free Workplace Act of 1988.

### Certification Statements

Except for certification statements below marked as not applicable (N/A), this list includes major requirements of the construction project. Selecting "yes" represents sponsor acknowledgement and confirmation of the certification statement. The term "will" means Sponsor action taken at appropriate time based on the certification statement focus area, but no later than the end of the project period of performance. This list is not comprehensive and does not relieve the sponsor from fully complying with all applicable statutory and administrative standards. The source of the requirement is referenced within parenthesis.

1. A statement has been or will be published prior to commencement of project notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the sponsor's workplace, and specifying the actions to be taken against employees for violation of such prohibition (2 CFR § 182.205).

☒ Yes   ☐ No   ☐ N/A

2. An ongoing drug-free awareness program (2 CFR § 182.215) has been or will be established prior to commencement of project to inform employees about:
  - a. The dangers of drug abuse in the workplace;
  - b. The sponsor's policy of maintaining a drug-free workplace;
  - c. Any available drug counseling, rehabilitation, and employee assistance programs; and
  - d. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

☒ Yes   ☐ No   ☐ N/A

3. Each employee to be engaged in the performance of the work has been or will be given a copy of the statement required within item 1 above prior to commencement of project (2 CFR § 182.210).

☒ Yes ☐ No ☐ N/A

4. Employees have been or will be notified in the statement required by item 1 above that, as a condition employment under the grant (2 CFR § 182.205(c)), the employee will:

- a. Abide by the terms of the statement; and
- b. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction.

☒ Yes ☐ No ☐ N/A

5. The Federal Aviation Administration (FAA) will be notified in writing within 10 calendar days after receiving notice under item 4b above from an employee or otherwise receiving actual notice of such conviction (2 CFR § 182.225). Employers of convicted employees must provide notice, including position title of the employee, to the FAA (2 CFR § 182.300).

☒ Yes ☐ No ☐ N/A

6. One of the following actions (2 CFR § 182.225(b)) will be taken within 30 calendar days of receiving a notice under item 4b above with respect to any employee who is so convicted:

- a. Take appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; and
- b. Require such employee to participate satisfactorily in drug abuse assistance or rehabilitation programs approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency.

☒ Yes ☐ No ☐ N/A

7. A good faith effort will be made, on a continuous basis, to maintain a drug-free workplace through implementation of items 1 through 6 above (2 CFR § 182.200).

☒ Yes ☐ No ☐ N/A

Site(s) of performance of work (2 CFR § 182.230):

**Location 1**

Name of Location: Dwight D. Eisenhower National Airport

Address: 2173 Air Cargo Road

**Location 2 (if applicable)**

Name of Location:

Address:

**Location 3 (if applicable)**

Name of Location:

Address:



Attach documentation clarifying any above item marked with "no" response.

**Sponsor's Certification**

I certify, for the project identified herein, responses to the forgoing items are accurate as marked and additional documentation for any item marked "no" is correct and complete.

Executed on this 19th day of April, 2016.

Name of Sponsor: Wichita Airport Authority

Name of Sponsor's Authorized Official: Victor White

Title of Sponsor's Authorized Official: Director of Airports

**Signature** of Sponsor's Authorized Official: \_\_\_\_\_

I declare under penalty of perjury that the foregoing is true and correct. I understand that knowingly and willfully providing false information to the federal government is a violation of 18 USC § 1001 (False Statements) and could subject me to fines, imprisonment, or both.

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## Selection of Consultants

### Airport Improvement Program Sponsor Certification

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Sponsor: Wichita Airport Authority

Airport: Wichita Dwight D. Eisenhower National Airport

Project Number: 3-20-0088-0071-2016

Description of Work: Pavement Condition Inventory

#### Application

49 USC § 47105(d) authorizes the Secretary to require certification from the sponsor that it will comply with the statutory and administrative requirements in carrying out a project under the Airport Improvement Program (AIP). General requirements for selection of consultant services within federal grant programs are described in 2 CFR §§ 200.317-200.326. Sponsors may use other qualifications-based procedures provided they are equivalent to standards of Title 40 chapter 11 and FAA Advisory Circular 150/5100-14, Architectural, Engineering, and Planning Consultant Services for Airport Grant Projects.

#### Certification Statements

Except for certification statements below marked as not applicable (N/A), this list includes major requirements of the construction project. Selecting "yes" represents sponsor acknowledgement and confirmation of the certification statement. The term "will" means Sponsor action taken at appropriate time based on the certification statement focus area, but no later than the end of the project period of performance. This list is not comprehensive and does not relieve the sponsor from fully complying with all applicable statutory and administrative standards. The source of the requirement is referenced within parenthesis.

1. Sponsor acknowledges their responsibility for the settlement of all contractual and administrative issues arising out of their procurement actions (2 CFR § 200.318(k)).  
☒ Yes   ☐ No   ☐ N/A
2. Sponsor procurement actions ensure or will ensure full and open competition that does not unduly limit competition (2 CFR § 200.319).  
☒ Yes   ☐ No   ☐ N/A
3. Sponsor has excluded or will exclude any entity that develops or drafts specifications, requirements, or statements of work associated with the development of a request-for-qualifications (RFQ) from competing for the advertised services (2 CFR § 200.319).  
☒ Yes   ☐ No   ☐ N/A
4. The advertisement describes or will describe specific project statements-of-work that provide clear detail of required services without unduly restricting competition (2 CFR § 200.319).  
☒ Yes   ☐ No   ☐ N/A

5. Sponsor has publicized or will publicize a RFQ that:
- a. Solicits an adequate number of qualified sources (2 CFR § 200.320(d)); and
  - b. Identifies all evaluation criteria and relative importance (2 CFR § 200.320(d)).
- ☒ Yes   ☐ No   ☐ N/A
6. Sponsor has based or will base selection on qualifications, experience, and disadvantaged business enterprise participation with price not being a selection factor (2 CFR § 200.320(d)).
- ☒ Yes   ☐ No   ☐ N/A
7. Sponsor has verified or will verify that agreements exceeding \$25,000 are not awarded to individuals or firms suspended, debarred or otherwise excluded from participating in federally assisted projects (2 CFR §180.300).
- ☒ Yes   ☐ No   ☐ N/A
8. A/E services covering multiple projects: Sponsor has agreed to or will agree to:
- a. Refrain from initiating work covered by this procurement beyond five years from the date of selection (AC 150/5100-14); and
  - b. Retain the right to conduct new procurement actions for projects identified or not identified in the RFQ (AC 150/5100-14).
- ☒ Yes   ☐ No   ☐ N/A
9. Sponsor has negotiated or will negotiate a fair and reasonable fee with the firm they select as most qualified for the services identified in the RFQ (2 CFR § 200.323).
- ☒ Yes   ☐ No   ☐ N/A
10. The Sponsor's contract identifies or will identify costs associated with ineligible work separately from costs associated with eligible work (2 CFR § 200.302).
- ☒ Yes   ☐ No   ☐ N/A
11. Sponsor has prepared or will prepare a record of negotiations detailing the history of the procurement action, rationale for contract type and basis for contract fees (2 CFR §200.318(i)).
- ☒ Yes   ☐ No   ☐ N/A
12. Sponsor has incorporated or will incorporate mandatory contract provisions in the consultant contract for AIP-assisted work (49 U.S.C. Chapter 471 and 2 CFR part 200 Appendix II)
- ☒ Yes   ☐ No   ☐ N/A
13. For contracts that apply a time-and-material payment provision (also known as hourly rates, specific rates of compensation, and labor rates), the Sponsor has established or will establish:
- a. Justification that there is no other suitable contract method for the services (2 CFR §200.318(j));
  - b. A ceiling price that the consultant exceeds at their risk (2 CFR §200.318(j)); and
  - c. A high degree of oversight that assures consultant is performing work in an efficient manner with effective cost controls in place 2 CFR §200.318(j)).
- ☒ Yes   ☐ No   ☐ N/A

14. Sponsor is not using or will not use the prohibited cost-plus-percentage-of-cost (CPPC) contract method. (2 CFR § 200.323(d)).

☒ Yes ☐ No ☐ N/A

Attach documentation clarifying any above item marked with "no" response.

#### **Sponsor's Certification**

I certify, for the project identified herein, responses to the forgoing items are accurate as marked and additional documentation for any item marked "no" is correct and complete.

I declare under penalty of perjury that the foregoing is true and correct. I understand that knowingly and willfully providing false information to the federal government is a violation of 18 USC § 1001 (False Statements) and could subject me to fines, imprisonment, or both.

Executed on this 19th day of April, 2016.

Name of Sponsor: Wichita Airport Authority

Name of Sponsor's Authorized Official: Victor White

Title of Sponsor's Authorized Official: Director of Airports

**Signature** of Sponsor's Authorized Official: \_\_\_\_\_

I declare under penalty of perjury that the foregoing is true and correct. I understand that knowingly and willfully providing false information to the federal government is a violation of 18 USC § 1001 (False Statements) and could subject me to fines, imprisonment, or both.

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## Certification and Disclosure Regarding Potential Conflicts of Interest

### Airport Improvement Program Sponsor Certification

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Sponsor: Wichita Airport Authority

Airport: Wichita Dwight D. Eisenhower National Airport

Project Number: 3-20-0088-071-2016

Description of Work: Pavement Condition Inventory

#### Application

Title 2 CFR § 200.112 and § 1201.112 address Federal Aviation Administration (FAA) requirements for conflict of interest. As a condition of eligibility under the Airport Improvement Program (AIP), sponsors must comply with FAA policy on conflict of interest. Such a conflict would arise when any of the following have a financial or other interest in the firm selected for award:

- a) The employee, officer or agent,
- b) Any member of his immediate family,
- c) His or her partner, or
- d) An organization which employs, or is about to employ, any of the above.

Selecting “yes” represents sponsor or sub-recipient acknowledgement and confirmation of the certification statement. Selecting “No” represents sponsor or sub-recipient disclosure that it cannot fully comply with the certification statement. If “No” is selected, provide support information explaining the negative response as an attachment to this form. This includes whether the sponsor has established standards for financial interest that are not substantial or unsolicited gifts are of nominal value (2 CFR § 200.318(c)). The term “will” means Sponsor action taken at appropriate time based on the certification statement focus area, but no later than the end of the project period of performance.

#### Certification Statements

1. The sponsor or sub-recipient maintains a written standards of conduct governing conflict of interest and the performance of their employees engaged in the award and administration of contracts (2 CFR § 200.318(c)). To the extent permitted by state or local law or regulations, such standards of conduct provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the sponsor’s and sub-recipient’s officers, employees, or agents, or by contractors or their agents.

☒ Yes ☐ No

2. The sponsor’s or sub-recipient’s officers, employees or agents have not and will not solicit or accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to sub-agreements (2 CFR § 200.318(c)).

☒ Yes ☐ No

3. The sponsor or sub-recipient certifies that is has disclosed and will disclose to the FAA any known potential conflict of interest (2 CFR § 1200.112).

☒ Yes ☐ No

Attach documentation clarifying any above item marked with "no" response.

**Sponsor's Certification**

I certify, for the project identified herein, responses to the forgoing items are accurate as marked and have the explanation for any item marked "no" is correct and complete.

Executed on this 19th day of April, 2016.

Name of Sponsor: Wichita Airport Authority

Name of Sponsor's Authorized Official: Victor White

Title of Sponsor's Authorized Official: Director of Airports

**Signature** of Sponsor's Authorized Official: \_\_\_\_\_

I declare under penalty of perjury that the foregoing is true and correct. I understand that knowingly and willfully providing false information to the federal government is a violation of 18 USC § 1001 (False Statements) and could subject me to fines, imprisonment, or both.

CONTRACT  
for  
CONSULTING SERVICES  
Between the  
WICHITA AIRPORT AUTHORITY

and

APPLIED PAVEMENT TECHNOLOGY

Remit to:

Applied Pavement Technology  
115 West Main Street, Suite 400  
Urbana, Illinois 61801

THIS CONTRACT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between the WICHITA AIRPORT AUTHORITY, Wichita, Kansas, party of the first part, hereinafter called the "OWNER" and Applied Pavement Technology, Urbana, Illinois, party of the second part, hereinafter called the "CONSULTANT".

WITNESSETH: That,

WHEREAS the OWNER is engaged in the operation of Wichita Dwight D. Eisenhower National and Colonel James Jabara Airports; and whereas it is the desire of both parties that the CONSULTANT furnish consulting services in conjunction with the Pavement Condition Inventory, Formal Proposal Number FP540087 (PROJECT); and whereas all of the aforesaid being located within the corporate limits of the City of Wichita, Sedgwick County, Kansas, and

WHEREAS that this Agreement and all subconsultant agreements shall be governed by the laws of the State of Kansas AND

WHEREAS the OWNER is authorized by law to employ a consultant to provide professional consulting services NOW, THEREFORE, the parties hereto do mutually agree as follows:

ARTICLE I - SCOPE OF SERVICES

The Scope of Services to be performed by the CONSULTANT shall be as outlined in EXHIBIT A, attached hereto and incorporated herein by reference.

ARTICLE II - THE CONSULTANT AGREES:

- A. To provide the professional services, equipment, material and transportation to perform the tasks as outlined in ARTICLE I, SCOPE OF SERVICES.
- B. To designate a project manager who will coordinate all work and be the point of contact for communications and to submit qualifications of the proposed project manager to the OWNER in advance of the Notice to Proceed. The OWNER reserves the right to withhold the Notice to Proceed until a qualified project manager is designated. The OWNER shall concur with any changes to this assignment.

- C. To submit to the OWNER in a timely manner, editable, electronic files of all submittals in Microsoft Office and AutoCAD. Each submittal shall be in a single, organized file that mimics the format of the hard copy document.
- D. To save and hold OWNER harmless against all suits, claims, damages and losses for injuries to third parties or their property or to the OWNER and its property arising from or caused by negligent acts, errors or omissions of CONSULTANT, its agents, servants, employees, or subconsultants occurring in the performance of its services under this Agreement. This liability shall extend to consequential damages suffered by OWNER as a result of, loss of grant or other funding mechanisms or changes in requirements.
- E. To maintain an acceptable cost accounting system in accordance with 49 CFR Part 18.36(i). The CONSULTANT agrees to provide the OWNER, the Federal Aviation Administration and the Comptroller General of the United States or any of their duly authorized representatives' access to any books, documents, papers, and records of the CONSULTANT which are directly pertinent to the specific Contract for the purpose of making audit, examination, excerpts and transcriptions. The CONSULTANT agrees to maintain, at their office, all books, documents, papers, accounting records, etc. developed or used for this PROJECT for a period of not less than three years after final payment is made and all pending matters are closed.

Should CONSULTANT, its subconsultants and/or agents cause any violation of Federal, State and/or local law, regulation or ordinance, and should OWNER be cited for a fine or penalty for such violation, CONSULTANT agrees to reimburse OWNER for any monetary fine or penalty which may be imposed on OWNER. However, nothing herein shall prevent the CONSULTANT from contesting the legality, validity or application of such fine or penalty to the full extent CONSULTANT may lawfully be entitled, nor require OWNER to pursue such a contest on CONSULTANT'S behalf. OWNER agrees to cooperate in CONSULTANT'S content of the validity of such fine or penalty, at CONSULTANT'S expense.

- F. To not participate either directly or indirectly in discrimination prohibited by the non-discrimination requirements of the City of Wichita, Kansas, as set out in EXHIBIT B, and the non-discrimination requirements of the Federal Aviation Administration, as set out in EXHIBIT D.
- G. That it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The CONSULTANT assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. The CONSULTANT assures that it will require that their covered suborganizations provide assurances to the OWNER that they similarly will undertake affirmative action programs and that they will require assurances from their suborganizations, as required by 14 CFR Part 152, Subpart E, to the same effect.
- H. To accept compensation for the work herein described in such amounts and at such periods as hereinafter provided and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work described in EXHIBIT A.



- I. To submit billings to the OWNER for the Services performed as required by this Agreement. Billings shall not exceed progress of work as evidenced by deliverables submitted by the CONSULTANT and approved by the OWNER. During the progress of work covered by the Agreement, partial payment requests may be made at intervals of not less than four weeks. The progress billings shall be supported by documentation acceptable to the OWNER, which shall include a record of the percentage completion evidenced by approved deliverables, of the number of days allocated for completion of the work, the number of days that have elapsed, and the number of days that remain to complete the work. Progress billings shall also include copies of subconsultant invoices to the CONSULTANT for the same billing period. Payment to subconsultants, for satisfactory performance, shall be made within 30 days of receipt of payment and no retainage shall be withheld. Any delay or postponement of payment from the referenced time frame may occur only for good cause and following written approval of the OWNER.
- J. To complete and deliver documents to the OWNER within the time allotted for the work as stipulated herein in Exhibit C; except that the CONSULTANT shall not be responsible or held liable for the time required for reviews for the approving parties or other delays occasioned by the actions or inactions of the OWNER or other agencies, or for other unavoidable delays beyond the control of the CONSULTANT. The CONSULTANT shall maintain such schedule through the duration of the Project.
- K. To covenant and represent to be responsible for the professional and technical accuracy and the coordination of all drawings or other work or material furnished by the CONSULTANT under this Agreement.

CONSULTANT further agrees, covenants and represents that services furnished by CONSULTANT, its agents, employees and subconsultants under this Agreement shall be free from negligent errors or omissions.

- L. To procure and maintain such professional liability insurance as will protect the CONSULTANT from damages resulting from negligent acts and/or omissions of the CONSULTANT, its agents, officers, employees and subconsultants in an amount not less than \$2,000,000 per claim, subject to deductible of the greater of \$10,000 or such amount that the CONSULTANT can demonstrate to OWNER'S satisfaction is financially prudent. The CONSULTANT shall be responsible for payment of all deductible amounts without reimbursement by OWNER.

In addition, CONSULTANT will provide either:

\_\_\_\_\_ tail coverage on the same terms extending for 3 years after project completion, or

  X   agree, by this provision, to continuously maintain professional liability insurance on a claims made basis at an equal or greater level of coverage to that described above for a period extending for 3 years after project completion

To procure and maintain a Worker's Compensation policy with coverage amounts sufficient to meet statutory requirements. This policy shall contain an "all-states" endorsement. In addition, an Employers Liability policy with coverage in the sum of not less than \$1,000,000 shall be provided and maintained. This policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their

employment, which, for any reason, may not fall within the provisions of the Worker's Compensation Law.

To procure and maintain a commercial general liability policy for the duration of the Project that shall be written in a comprehensive form and shall protect CONSULTANT against all claims arising from injuries to persons (other than CONSULTANT'S employees) or damage to property of the OWNER or others arising out of any negligent act or omission of CONSULTANT, its agents, officers, employees, or subconsultants in the performance of CONSULTANT services under this Agreement. The liability limit shall not be less than \$1,000,000 per occurrence for bodily injury, death and property damage. The Wichita Airport Authority, Wichita, Kansas; the City of Wichita; their officers, employees and agents shall be named as additional insureds under the terms of the policy with respect to the names insurer's operations. Satisfactory Certificates of Insurance shall be filed with the OWNER prior to the time CONSULTANT starts any work under this Agreement. The CONSULTANT shall maintain such insurance through the duration of the Project. In addition, insurance policies applicable hereto shall contain a provision that provides that the OWNER shall be given written notice by the insurance company before such policy is substantially changed or cancelled.

- M. To employ Disadvantaged Business Enterprise (DBE) businesses of at least 5.49% of the eligible federally funded services encumbered by this Agreement and related Supplemental Agreements or demonstrate good faith effort that the DBE goal cannot be obtained as per 49 CFR Part 26, Appendix A, for the 2016 Eisenhower National Airport evaluation. Subsequent studies shall follow the goals in place at the time of that Agreement.
- N. The CONSULTANT agrees to pay each subconsultant under this Agreement for satisfactory performance of its contract no later than ten working days from receipt of each payment the prime Consultant receives from the Wichita Airport Authority. The prime Consultant agrees further to return retainage payments to each subconsultant within thirty days after the subconsultant's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the OWNER. This clause applies to both DBE and non-DBE subconsultants.
- O. Its agents, employees and subconsultants, shall be subject to any and all applicable rules, regulations, orders and restrictions which are now in effect and which apply to its activities on airport property, including such rules, regulations, orders and/or restrictions that may be adopted, enacted or amended during the term of this Agreement.
- P. That all information provided by the OWNER and/or developed for the PROJECT shall be considered confidential and proprietary, and shall not be reproduced, transmitted, used or disclosed by the CONSULTANT without the written consent of OWNER, except as may be necessary for the non-disclosing party to fulfill its obligations hereunder; provided, however, that the limitation shall not apply to any information or portion thereof, which is:
  - 1. Within the public domain at the time of its disclosure.
  - 2. Required to be disclosed by a court of competent jurisdiction or Government order.

3. Approved by the OWNER for publicity.
  4. Required to be communicated in connection with filings with governmental bodies having jurisdiction over the design or construction of the PROJECT.
- Q. That unless the OWNER has authorized in writing an increase in funds established for the construction estimates of cost, the CONSULTANT agrees to make any such revisions in plans and specifications as are necessary and as are satisfactory to the OWNER, to bring the PROJECT within the approved estimated cost, such revisions to be made at its own expense without cost to the OWNER, whether or not said plans and specifications have theretofore been approved by the OWNER; provided, that if said plans and specifications have been approved by the OWNER, should the OWNER desire any material changes in the type of construction or other changes not necessary to be made for the purpose of bringing the cost of the PROJECT within the estimate, the OWNER shall pay the CONSULTANT the cost of making such revisions.
  - R. That the project documents are exclusive the property of the Wichita Airport Authority. The use of the project documents for any other purpose or project is prohibited, without the expressed written consent of the OWNER.
  - S. That it and its subconsultants will work exclusively for the OWNER on all aspects of this Project.
  - T. To review, approve and forward undisputed requests for payment to the OWNER within seven business days of receipt from the contractor.
  - U. To abide by the applicable sections of the Required Contract Provisions for Airport Improvement Program and for Obligated Sponsors, as set out in Exhibit D.

**ARTICLE III - THE CONSULTANT CERTIFIES:**

- A. It has not employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for the CONSULTANT) to solicit or secure this Agreement,
- B. It has not agreed, as an express or implied condition for obtaining this Agreement, to employ or retain the services of any firm or person in connection with carrying out the Agreement,
- C. It and its and subconsultant's overhead rates used on this Contract are consistent with Federal cost principles contained in 48 CFR, Part 31, *Contract Cost Principles and Procedures* and to provide to the OWNER such certification prior to the execution of the Agreement.
- D. It will comply with the pertinent Federal statutes, Executive orders and such rules as are promulgated to assure that no person shall, on the ground of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance.

- E. It will comply with pertinent statutes regarding the Airport and Airways Improvement Act of 1982, Section 520 (General Civil Rights Provisions), Executive orders and such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.
1. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by negotiation made by the CONSULTANT for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the CONSULTANT of the CONSULTANT's obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
  2. Information and Reports: The CONSULTANT shall provide all information and reports required by the Regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Sponsor or the Federal Aviation Administration (FAA) to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of a CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the Owner or the FAA, as appropriate, and shall set forth what efforts it has made to obtain the information.
  3. Sanctions for Noncompliance: In the event of the CONSULTANT's noncompliance with the non-discrimination provisions of this Agreement, the Owner shall impose such sanctions as it or the FAA may determine to be appropriate, including, but not limited to:
    - a. Withholding of payments to the CONSULTANT under the Agreement until the CONSULTANT complies, and/or
    - b. Cancellation, termination, or suspension of the Agreement.
  4. Incorporation of Provisions: The CONSULTANT shall include the provisions of the subparagraphs of this clause in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The CONSULTANT shall take such action with respect to any subcontract or procurement as the Owner or the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a consultant becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the CONSULTANT may request the Owner to enter into such litigation to protect the interests of the Owner and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.



ARTICLE IV - THE OWNER AGREES:

- A. To furnish all available data pertaining to the PROJECT available to the OWNER. All data shall be considered confidential unless otherwise noted.
- B. To pay the CONSULTANT for services in accordance with the requirements of this Agreement within thirty (30) working days from the date of receipt of invoice and upon satisfactory performance of service.
- C. To provide the right of entry into secured areas for CONSULTANT'S personnel, subject to all rules and regulations of the OWNER, the Transportation Security Administration and Federal Aviation Administration regarding airfield safety and security.
- D. To pay all applicable fees, unless otherwise stated herein.
- E. To indemnify and hold the CONSULTANT harmless against OWNER'S negligent acts and errors.

ARTICLE V – PAYMENT PROVISIONS:

- A. Payment to the CONSULTANT for performance of the specified services shall be on the basis of a lump sum fee of \$195,349.00 as allowed in Chapter 4, Federal Aviation Administration Advisory Circular 150/5100-14E dated September 25 2015, unless otherwise noted herein. The fee schedule is provided in EXHIBIT E.
- B. During the course of the Agreement any scope changes anticipated or detected by the CONSULTANT shall immediately, and in writing, be brought to the attention of the OWNER along with an estimate of actual costs and impact to the schedule. The CONSULTANT shall give the OWNER the opportunity to mitigate any and/or all impacts of the proposed scope changes. For potential scope changes initiated by the OWNER, the OWNER shall provide to the CONSULTANT, in writing, the known details of the proposed scope change and the CONSULTANT shall proceed to provide a timely response. In no case shall additional work be performed nor shall additional compensation be paid except on the basis of an executed supplemental agreement.
- C. CONSULTANT will be eligible for final payment after all work is complete and approved by the FAA and the OWNER.

ARTICLE VI - THE PARTIES HERETO MUTUALLY AGREE:

- A. That deliverables shall become the property of the OWNER upon delivery or termination of the Services in accordance with this Agreement. The OWNER shall not hold the CONSULTANT and subconsultants liable upon the OWNER'S reuse of any part of deliverables, and there shall be no restriction or limitation on their further use by the OWNER. Consultant's seal and name shall not be reproduced on such documents if reused by the OWNER.
- B. That the Services to be performed by the CONSULTANT under the terms of this Agreement are personal and cannot be assigned sublet or transferred without specific consent of the OWNER.

- C. In the event of unavoidable delays in the progress of the work, reasonable extensions in the time will be granted by the OWNER, provided, however, that the CONSULTANT shall request extensions in writing giving the reason therefore.
- E. Unless otherwise provided in this Agreement, the CONSULTANT and agents, servants, employees, or sub-consultants shall have no responsibility for the discovery, presence, handling, removal or disposal of or exposure of persons to hazardous materials in any form at the project site, including but not limited to asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic substances.
- F. It is further agreed that this Agreement and all contracts entered into under the provisions of this Agreement shall be binding upon the parties hereto and their successors and assigns.
- F. Neither the OWNER'S review, approval or acceptance of, nor payment for, any of the work or services required to be performed by the CONSULTANT under this Agreement shall be construed to operate as a waiver of any right under this Agreement or any cause of action arising out of the performance of this Agreement.
- G. It is specifically agreed between the parties executing this Agreement, that it is not intended by any of the provisions of any part of this Agreement to create the public or any member thereof a third party beneficiary hereunder, or to authorize anyone not a party to this Agreement to maintain a suit for damage pursuant to the terms of provisions of this Agreement.
- H. The CONSULTANT and the OWNER shall not be obligated to resolve any claim or dispute related to this Agreement by arbitration. Any reference to arbitration in any proposal or contract documents is deemed void.
- I. The CONSULTANT and the OWNER shall not be obligated to resolve any claim or dispute related to this Agreement by arbitration. Any reference to arbitration in any proposal or contract documents is deemed void.
- J. The failure of any party to enforce, at any time, the provisions of this Agreement or the failure to exercise any option which it provides shall not be construed as a waiver of such provisions or to affect the validity of this Agreement or any of its terms, or the right of any party to enforce each and every provision of this Agreement or the right to exercise any option provided within this Agreement terms. Neither waiver of any breach nor waiver of multiple breaches of this Agreement shall be held to be a waiver of any other or subsequent breach. All remedies available under this Agreement are cumulative and are in addition to every other remedy provided by operation of law.


IN WITNESS WHEREOF, the OWNER and the CONSULTANT have executed this Agreement as of the date first written on the first page.


OWNER

WICHITA AIRPORT AUTHORITY  
WICHITA, KANSAS

By: \_\_\_\_\_  
Karen Sublett, City Clerk

By: \_\_\_\_\_  
Jeff Longwell, President

By:  \_\_\_\_\_  
Victor D. White, Director of Airports

APPROVED AS TO FORM:  \_\_\_\_\_ Date: 3-29-16  
Jennifer Magaña, City Attorney and Director of Law

CONSULTANT

Applied Pavement Technology  
115 West Main Street, Suite 400  
Urbana, Illinois  
61801

By:  \_\_\_\_\_

Date: 3/22/16

Title: Vice President

ATTACHMENTS: EXHIBIT A – Scope of Services and Map  
EXHIBIT B – Equal Employment Opportunity  
EXHIBIT C – Schedule  
EXHIBIT D – Federal Provisions  
EXHIBIT E – Fee Schedule



## WITCHITA AIRPORT AUTHORITY PAVEMENT CONDITION INVENTORY UPDATE

### – SCOPE OF SERVICES –

Applied Pavement Technology, Inc. (APTech) has teamed with Professional Engineering Consultants, P.A. (PEC) and TREKK Design Group, LLC (TREKK) to perform a Pavement Condition Inventory Update at Wichita Dwight D. Eisenhower National Airport for the Wichita Airport Authority (WAA). This project includes the conduct of network-level Pavement Condition Index (PCI) inspections and the development of a 10-Year Capital Improvement Program (CIP).

This Pavement Condition Inventory Update will build on data available from previous updates; APTech completed the previous project in 2010, with PCI inspections occurring in August 2009. This document outlines the proposed scope of services and deliverables to be provided under this project.

#### **Task 1. Systems Inventory**

##### **1a. Kick-Off Meeting**

The project will begin with a kick-off meeting with WAA at their office. During this meeting, the final scope of work and schedule will be reviewed and each deliverable will be discussed in detail, so that everyone leaves the meeting with a clear understanding of the schedule and final products expected from this project. In particular, coordination and timing of the field work activities—including PCI inspections, falling weight deflectometer (FWD) testing, and geotechnical work—will be discussed, as well as airport access and other security and airport operation concerns. During this meeting, a project contact list will be generated and the chain of communication to be used throughout the project will be established. As with all meetings, APTech will take meeting minutes and deliver a formal copy to WAA's Project Manager for approval within 1 week of the meeting.

APTech's project manager, APTech's field personnel (for both PCI inspections and FWD testing), the assistant PCI inspector from TREKK, and a representative from PEC will attend the kick-off meeting. To expedite security and badging requirements for accessing the airfield at Wichita Dwight D. Eisenhower National Airport, APTech and TREKK personnel will complete the security threat assessment paperwork and be fingerprinted while at the Airport's office for this kick-off meeting. The collection of work history and traffic information will also begin immediately following this meeting.

##### **1b. Work History**

Pavement construction, rehabilitation, and maintenance history information will be collected for Wichita Dwight D. Eisenhower National Airport, focusing on maintenance and rehabilitation work that has been performed since the previous Pavement Condition Inventory Update. Information of interest includes the type of work performed, the extents of each project, and when the work was completed. Material types and thicknesses will be obtained where possible. Sources of this information may include construction plan drawings and engineering/design reports. PEC will compile the records and APTech will interpret and use the information to



update the pavement network (task 2) and associated maps (task 3), and will enter construction dates, activities, and cross sections in the PAVER™ pavement management database (task 6).

APTech will also review results from geotechnical and pavement design projects that have occurred since the previous Pavement Condition Inventory Update. This information will be used for other analyses (tasks 5 and 7) to be performed during this project for Wichita Dwight D. Eisenhower National Airport.

Prior to finalizing the systems inventory information, APTech will provide WAA with a draft summary of the collected information for review and comment. The data will then be preserved in the corresponding PAVER™ pavement management database.

### 1c. Traffic

Detailed traffic information will be use for the structural analysis (remaining structural life and allowable load/PCN calculations). The types of aircraft traffic data that are needed for the analysis include aircraft type, maximum take-off weights (MTOW), number of annual departures and arrivals, anticipated changes in annual departures and arrivals over the 20-year analysis period, and aircraft taxiing patterns. It is important that the traffic data are as up to date as possible so that it accurately portrays existing and future traffic data and patterns. APTech will work closely with WAA to obtain detailed and accurate information.

### WAA Provided Items

The proposed scope of services assume the following will be provided by WAA staff:

- Assistance with security coordination; specifically to serve as authorized signatory for badging/fingerprinting paperwork.
- Aircraft traffic data, including aircraft types and volumes, and the distribution of this traffic on the airfield (i.e. a breakdown of the aircraft using the GA Ramp, Terminal Apron, Cargo Apron, and each of the runways and taxiways).

### Deliverables

The following deliverables will be submitted as part of this task:

- Minutes of project kick-off meeting.
- Project contact list.
- Summary of work history records for each pavement section.
- Summary of aircraft traffic for approval.

## **Task 2. Network Definition**

Based on the work history findings, the pavement network at Wichita Dwight D. Eisenhower National Airport will be updated. The airport is divided into facilities (branches), features (sections), and sample units in accordance with FAA and ASTM guidelines. The information from the previous Pavement Condition Inventory Update will serve as a starting point for defining the network; it will be updated based on the work history information collected under task 1.

### WAA Provided Items

There are no specific items required from WAA for this task.

### Deliverables

There are no deliverables planned as part of this task.

## **Task 3. Mapping**

All branch, section, and sample unit boundaries will be shown on the airport network definition map. Upon completion of the pavement condition inspection task, the network definition map will be modified to reflect any changes identified in the field. Work history and color-coded PCI maps will also be prepared that show the construction and rehabilitation history of each pavement section and the ranges of PCI conditions across the airports.

After analyzing the data and results, a map will be developed that identifies the prioritized list of projects recommended in the 10-Year CIP. Maps will also be prepared showing the PCI of each section with and without the recommended rehabilitation projects, which provides a quick comparison of the effect of the proposed funding level.

The maps used during the previous project will be updated based on information obtained during the work history records review task. If aerial imagery is available from the City or another recent source, project maps will be overlaid on aerial photographs. Maps will be georeferenced to align with global coordinates and industry standard/FAA requirements.

### WAA Provided Items

The proposed scope of services assume the following will be provided by WAA staff:

- CAD map of airport, reflecting current pavement geometry.
- Aerial imagery, if WAA desires this to be included in map deliverables.

### Deliverables

The following maps will be submitted as part of this task:

- Network definition map.
- Work history map.
- 2016 PCI map.
- FWD testing locations.
- Core locations (see Task 5).
- 10-year CIP.
- Projected 2026 PCI following CIP.
- Projected 2026 PCI without any rehabilitation work.

Maps will be included in the draft and final reports.

## **Task 4. Pavement Evaluation**

The airfield pavements at Wichita Dwight D. Eisenhower National Airport will be evaluated through a visual pavement condition inspection to assess the pavement's surface condition.

Selected pavement sections will undergo further non-destructive testing using a heavy-weight model FWD to assess the pavement's structural integrity.

#### 4a. Visual Pavement Condition Evaluation

During the visual condition assessment, the pavements at Wichita Dwight D. Eisenhower National Airport will be inspected using the PCI procedure as described in ASTM Standard D5340-12. The pavement management update will be completed following guidance in FAA Advisory Circulars 150/5380-7B and 150/5380-6C. During the PCI survey, visible signs of deterioration within a selected sample unit will be recorded and analyzed by distress type, severity, and quantity.

#### PAVEMENT CONDITION INDEX

	86-100, Good
	71-85, Satisfactory
	56-70, Fair
	41-55, Poor
	26-40, Very Poor
	11-25, Serious
	0-10, Failed

While the PCI results give a general indication of the overall pavement condition, the specific maintenance and rehabilitation needs of a pavement may be obscured by such an index. During the PCI inspection, APTech will also identify the specific distresses that are present, report on the possible causes of such distresses, and relate such findings to general categories of treatment. In addition, an extensive photographic log and inspectors' field comments will be maintained. Of course, during the inspections if any area is found that might present a current hazard to aircraft operations, WAA will be notified immediately.

Because the development of pavement repair programs within a 10-year CIP is based on the condition data collected during the project, it is very important that WAA have a thorough understanding of how pavement condition data are collected and what that information means. Therefore, Airport personnel are welcome to accompany the field crew during the pavement inspections. Because APTech uses an experienced pavement engineer to lead the field team (not a technician or an engineer without airport PCI experience), team members are able to provide solid training to airport staff and to advise them on the cause(s) of distresses present at their airport and the different maintenance and rehabilitation actions that can be taken to correct them.

Prior to conducting the PCI surveys, a field schedule will be developed to ensure timeliness of the data collection efforts and to allow for proper planning and coordination. The field work will be scheduled in coordination with WAA. Critical operation areas where access may be limited will be identified and scheduled during slower traffic periods to maximize the efficiency of inspection and to minimize the impact on airfield operations. It is assumed that all inspections will be conducted during daylight hours.

The inspection team will use tablet computers to directly enter distress data into PAVER™ during the PCI inspection. The use of these computers significantly accelerates the processing of the collected data and also increases data accuracy because of the built-in error-checking capabilities. One further advantage of using this technology is that processed PCI data become immediately available upon completion of the pavement inspection, which enhances quality control capabilities.

The results of the condition surveys will be used to calculate PCIs for each pavement section so the relative condition of one section to another can be determined and evaluated. The PCI will be compared with the 2006 and 2009 values to track the condition of each pavement section over time and to determine the rate at which each section is deteriorating. Additionally, the distress information will be analyzed to determine the types of distress present in each pavement section and the primary cause of deterioration (structural, climatic, or other).

#### **4b. Structural Condition Assessment**

Nondestructive testing will be performed on selected pavement sections at Wichita Dwight D. Eisenhower National Airport to backcalculate the subgrade and pavement layer properties and to determine the structural integrity and load-carrying capacity of the pavement sections. FWD testing will be conducted using APTech's Dynatest Model 8082 heavy-weight FWD, which is capable of simulating aircraft wheel loadings up to 55,000 pounds. FWD testing and analysis will be performed in accordance with FAA AC 150/5370-11B, *Use of Nondestructive Testing in the Evaluation of Airport Pavements*. This non-destructive testing will be supplemented with coring, as outlined in Task 5.

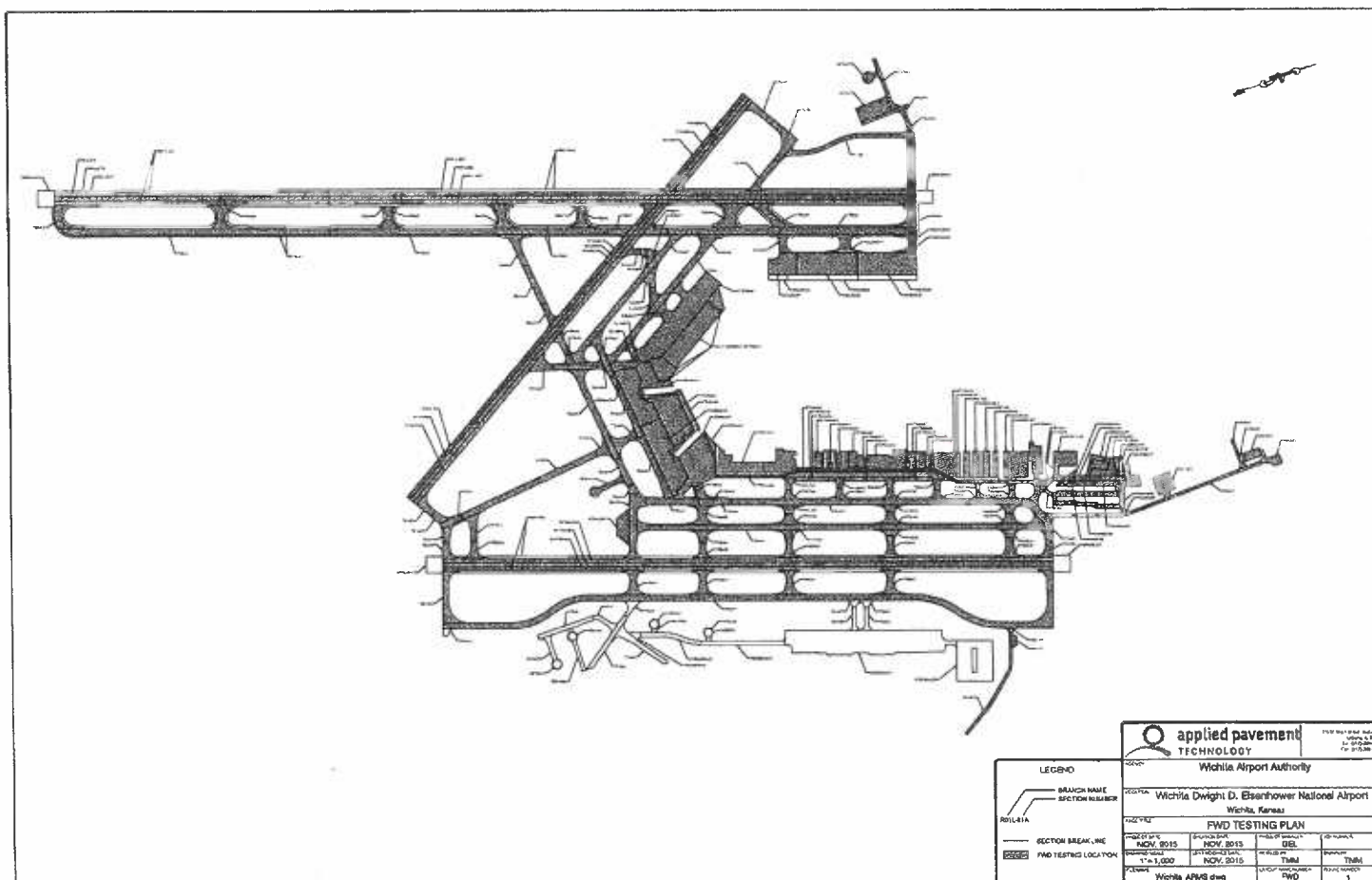
APTech will perform network-level FWD testing (and analysis as part of task 7) on the pavement sections highlighted in Figure 1. These sections include trafficked airfield pavements, excluding the pavement located east of Taxiway M.

A meaningful characterization of pavement properties requires the collection of sufficient data. On the runway and taxiway sections, testing will be performed in two testing lanes at 100-foot intervals, with one test lane located on either side of the centerline. Additional test lanes on each runway are also proposed to collect data in the outer pavement sections (within the outer 50 feet along each runway) at 200-foot intervals. The test locations between lanes will be offset to provide a more thorough coverage of the pavement. On the aprons identified, testing will be performed at a rate of approximately 1 test per 10,000 square feet. A minimum of five locations will be collected per section. The proposed testing pattern provides a thorough distribution of test locations throughout the pavement sections and provides sufficient data to accurately evaluate each pavement section.

The FWD equipment is configured for each project to address local conditions while remaining consistent with FAA guidance. The purpose of the customized configuration is to simulate the actual loading conditions in the field. The following configuration will be used:

- Three-drop test sequence of approximately 20,000, 30,000, and 40,000 lbs.
- Large load plate with an 8.86-in radius.
- Sensors spaced at 0, 12, 24, 36, 48, 60, and 72 inches.

This testing configuration may be modified based on site conditions, if necessary. The proposed configuration is consistent with that used for the previous Pavement Condition Inventory Updates, which will allow a direct comparison of the results. All testing work will be scheduled in coordination with WAA. Critical operation areas where access may be limited will be identified and scheduled for testing during slower traffic periods to maximize efficiency and to minimize the effect on airfield operations.





### WAA Provided Items

The proposed scope of services assume the following will be provided by WAA staff:

- CAD map of airport, reflecting current pavement geometry.

### Deliverables

The following deliverables will be submitted as part of this task:

- Schedule for PCI surveys and FWD testing.
- Photographs of distresses with GPS coordinates.

## **Task 5. Geotechnical Services**

The backcalculation of material properties from FWD data is extremely sensitive to pavement thickness, so it is important to obtain accurate cross section information for this analysis. Core data are available for most sections from previous studies and from previous construction projects. The data will be supplemented with core samples as needed.

The focus of coring activities will be on the General Aviation (GA) Apron; however cores may be taken in additional locations if results of the FWD testing and associated data analysis identify a need. In addition to providing pavement layer thickness information, coring will provide an indication of the condition of the pavement beyond what is visible on the pavement surface, which is particularly important on the GA Apron. Often the condition of the pavement can be much worse at the bottom of the pavement, such as the case with D-cracking, which typically initiates at the bottom of the portland cement concrete (PCC) slab and progresses upward. Furthermore, the bonding condition between pavement layers (such as a PCC pavement that has been overlaid with hot-mix asphalt [HMA]) will have a tremendous influence on the performance of an overlay and must be assessed. While detailed rehabilitation designs will not be developed for the GA Apron as part of this project, the data obtained from this Pavement Condition Inventory Update will provide vital information for the GA Apron rehabilitation planning.

A total of twenty-five cores are included in this scope, with twenty cores to be retrieved from the GA Apron and an allowance for another five cores to be taken elsewhere, if necessary. At ten of the core locations, soil borings will also be performed. Laboratory testing will be conducted on soil samples to determine soil classifications, plastic and liquid limits, plasticity index, and moisture contents. Soils will be classified according to ASTM D2487, *Standard Practice for Classification of Soils for Engineering Purposes (Unified Soil Classification System)*. Soil CBR values will be determined by laboratory testing according to ASTM D1883, *Standard Test Method for CBR (California Bearing Ratio) of Laboratory-Compacted Soils*. APtech will create and submit a coring plan to WAA for approval. The coring information collected during this task will be summarized in an appendix of the report, along with other coring data taken as part of construction projects.

### WAA Provided Items

There are no specific items required from WAA for this task.

## Deliverables

The following deliverables will be submitted as part of this task:

- Coring plan (to be approved by WAA).
- Appendix summarizing coring data.

## **Task 6. PAVER™ Update and Customization**

During this task, the information collected during this study will be entered into the existing PAVER™ pavement management database for Wichita Dwight D. Eisenhower National Airport. Additionally, APTech will customize the inputs that feed into the PAVER™ pavement management database to reflect the conditions and policies under which the airport operates. The customization process will include developing pavement performance models, establishing prioritization guidelines, developing maintenance and rehabilitation policies, and determining and entering unit cost information for maintenance and rehabilitation actions. This information will permit WAA to use the program to perform realistic analyses and generate realistic capital budgeting outputs. APTech will hold a conference call with WAA to discuss these customization options. The inputs from the previous study will be used as a starting point, but will be revisited with WAA to ensure they are still valid. The database will undergo a thorough quality control process to ensure that information stored in the PAVER™ database is accurate and consistent with the information collected throughout the project.

### 6a. Performance Model Development

Pavement management involves forecasting needs based on pavement performance predictions. By projecting the rate at which the conditions will change over time, a meaningful economic analysis can be performed to compare the cost of preventive maintenance versus rehabilitation activities. In addition to identifying the most economical type of repair, the optimal time for applying treatments can be estimated. Typically, the optimal repair time is the point at which a gradual rate of deterioration begins to increase at a much faster rate. It is critical to identify this point to avoid higher maintenance and rehabilitation costs caused by excess deterioration.

PAVER™ predicts the condition using an advanced modeling technique that involves organizing the pavement network into “families” of pavements that perform in a similar manner. For example, PCC runway pavement sections that have never received an overlay and are subjected to heavy traffic may be grouped into a family. A constrained regression (set to the degree that the user feels is appropriate) is then applied to the data set (pavement age versus PCI) to develop a deterioration curve for that family of pavements. The performance of an individual section can then be predicted using a section’s relative position to the family curve that represents it.

At a minimum, it is anticipated that the following factors will be assessed to determine their effect on the performance of the investigated pavements: pavement surface type, pavement use (runway, taxiway, and apron), and traffic. With the data from this project added to the data sets from previous updates, it is anticipated that more sophisticated and refined models can be developed.

### 6b. Prioritization Guidelines

Prioritization guidelines within PAVER™ are used to rank major rehabilitation projects according to the practices of the user when there is not enough funding for all identified projects.

Guidelines can be established based on such factors as pavement use (runway, taxiway, or apron) and section rank. APTech will work closely with WAA to establish the prioritization guidelines for Wichita Dwight D. Eisenhower National Airport.

#### **6c. Maintenance Policies**

Both stop-gap and preventive localized maintenance policies will be analyzed using PAVER™. Stop-gap maintenance policies are applied when major rehabilitation is warranted but not funded, such as to address a potential safety issue (such as wide cracks or distresses creating possible FOD or hydroplaning situations). Preventive maintenance policies are applied to pavements that are in good condition and where preventive maintenance actions (such as crack sealing and joint sealing) have the potential to slow the rate of pavement deterioration.

During the customization process, the stop-gap and preventive maintenance policies will be established for Wichita Dwight D. Eisenhower National Airport. Each policy will contain the maintenance activity and cost considered applicable for repairing each distress type, amount, and severity. This information will be used in PAVER™ during the development of maintenance plans. Again, the policies from the previous study will be referenced and updated, as appropriate.

#### **6d. Unit Cost Information**

Unit cost information is used in PAVER™ when developing maintenance and rehabilitation plans. PEC already has the needed information from recent projects at Wichita Dwight D. Eisenhower National Airport that they will review to determine local unit costs, including information on new construction, rehabilitation, repair, and maintenance costs. APTech will enter the unit costs, determined by PEC, into PAVER™ as appropriate for the rehabilitation of different pavement types at different PCI levels and for typical maintenance actions (such as patching, crack sealing, joint sealing, and so on).

#### **WAA Provided Items**

There are no specific items required from WAA for this task; however, APTech requests input and confirmation of the customization inputs for analysis.

#### **Deliverables**

The following deliverables will be submitted as part of this task:

- Customization document.
- Updated PAVER™ database.

### **Task 7. Data Analysis**

#### **7a. Visual Condition Data Analysis**

PAVER™ will be used to analyze the PCI data. Three aspects of the data will be analyzed for each section at Wichita Dwight D. Eisenhower National Airport:

- *Composite Index.* The PCI for each section will be calculated. The PCI provides a general sense of the pavement condition and the magnitude of work required to rehabilitate the pavement.



- *Cause of Deterioration.* The types of distress identified during the surveys will be analyzed, which provides insight into the cause of pavement deterioration. Distress types are characterized as load-related (such as corner breaks or mid-panel cracks), climate-related (such as weathering and raveling), and materials-related (such as durability cracking). Understanding the cause of distress allows a treatment to be selected that corrects the cause of deterioration, thus preventing its recurrence.
- *Pavement Deterioration Rate.* The deterioration rate helps identify those pavement sections that are failing faster than normal. Sections exhibiting higher than normal deterioration rates warrant close monitoring. Such sections will be reviewed in detail and possible causes for the high deterioration rates will be presented in the report.

This information will then be used to estimate the remaining life (in terms of PCI) of each pavement section. This determination will be made using the performance models developed from the PCI data.

### 7b. Structural Data Analysis

One of the primary benefits of FWD testing is the ability to use the results to determine the structural condition of the pavement layers and the support of the underlying subgrade. This information, combined with projected traffic loadings, can then be used to estimate the allowable loads and to determine the remaining structural life of each pavement section. FWD testing will be performed on pavement sections at Wichita Dwight D. Eisenhower National Airport, as outlined in Figure 1. APTech will use the FWD data to evaluate the following pavement properties:

- *Normalized Deflections.* Deflection profiles will be plotted to illustrate the maximum deflections (normalized to a standard load and temperature) against the stationing along the facility. Areas with changes in pavement structural capacity or current condition will be evident from the longitudinal deflection profiles.
- *Layer Modulus Values.* Elastic moduli (E) for each pavement layer and subgrade support values—modulus of subgrade reaction ( $k$ ) for rigid pavements and resilient modulus for flexible pavements—will be determined from backcalculation. APTech will apply appropriate analysis procedures based on the type of pavement being tested.
- *Allowable Loads.* The Pavement Classification Number (PCN) of each pavement section will be determined in accordance with FAA Advisory Circular 150/5335-5C and will be compared with the Aircraft Classification Number (ACN) of aircraft that are currently in the traffic mix or that may use the airfield in the future. The results will be presented in a table that will allow officials to quickly assess the ability of a specific aircraft to land at the Airport. Additionally, aircraft loads for applicable gear configurations will be correlated with the resulting PCNs and will also be reported.
- *Structural Remaining Life.* FAARFIELD will be used to determine the time (in years) until each pavement section reaches the end of its life as defined by an acceptable level of deterioration (cracking on PCC pavements, and rutting or alligator cracking on HMA pavements). For sections with a structural remaining life of less than 10 years, the structural deficiency (measured in inches) will be determined to further assist with developing rehabilitation recommendations.

In addition to reporting PCN and structural remaining life results for the actual traffic, APTech will analyze the effect of infrequent loading of heavy aircraft on the pavement structure, up to five aircraft. WAA will provide the specific aircraft they are interested in having analyzed.

In addition, the results will be used to develop rehabilitation/reconstruction recommendations for those sections included in the 10-year CIP.

#### WAA Provided Items

The proposed scope of services assume the following will be provided by WAA staff:

- Specific aircraft that WAA is interested in analyzing their effect on the pavement structure, up to five unique aircraft models.

#### Deliverables

The following deliverables will be submitted as part of this task:

- PCIs and PCNs will be provide in tabular format by pavement section to WAA for review in advance of submitting the draft report. APTech and WAA will coordinate with Part 139 inspectors and the FAA's Central Region Airports Division to publish the PCNs.
- The results of this task will be included in the project report (task 9).

### **Task 8. 10-Year Capital Improvement Program**

The information compiled during the previous tasks will be used to develop a 10-year CIP outlining the maintenance and rehabilitation activities recommended for Wichita Dwight D. Eisenhower National Airport. Prior to developing this program, APTech will work with WAA to identify the parameters controlling this program (annual budget, inflation rate, and so on). With the incorporation of FWD testing, a more accurate assessment of the pavement's future structural needs will be determined, which will allow for the development of specific rehabilitation designs and realistic cost estimates.

Upon completion of a preliminary plan, APTech will meet with WAA to discuss the plan and to provide modifications to take into account other factors, such as safety requirements, operational concerns, construction feasibility, and projects that are already programmed for work in a given year. By considering these factors, the final program will be a much more realistic reflection of what WAA plans to accomplish in the future.

#### WAA Provided Items

The proposed scope of services assume the following will be provided by WAA staff:

- Anticipated annual budgets.

#### Deliverables

There are no deliverables planned for this task. The CIP map will be delivered as part of task 3, and the CIP recommendations will be presented in the project report (task 9).

## **Task 9. Report Generation**

### **9a. Project Report**

A detailed report will be prepared that provides comprehensive information on the work undertaken, the data collected, and the results of the analyses. The report will also contain a discussion on the future use and update of the APMS. Hard copies and an electronic version of the draft report will be submitted to WAA and FAA for review. The report will then be revised to incorporate WAA's and FAA's comments, and a final report will be submitted. Hard copies of the final reports along with electronic files will be delivered.

### **9b. Executive Summary**

An *Executive Summary*, highlighting the key findings and recommendations of the study, will also be prepared. This report will be a 10- to 15-page stand-alone document prepared on glossy paper using full color. It will document the needs of the airport pavement infrastructure in non-technical, easy-to-understand, terms.

### **WAA Provided Items**

There are no specific items required from WAA for this task.

### **Deliverables**

The following deliverables will be submitted as part of this task:

- Electronic (PDF) version and three (3) hard copies of the draft project report.
- Electronic (PDF) version and six (6) hard copies of the final project report.
- Electronic (PDF) version of the draft *Executive Summary*.
- Electronic (PDF) version and twenty-five (25) hard copies of final *Executive Summary*.

## **Task 10. Final Meeting/Demonstrations**

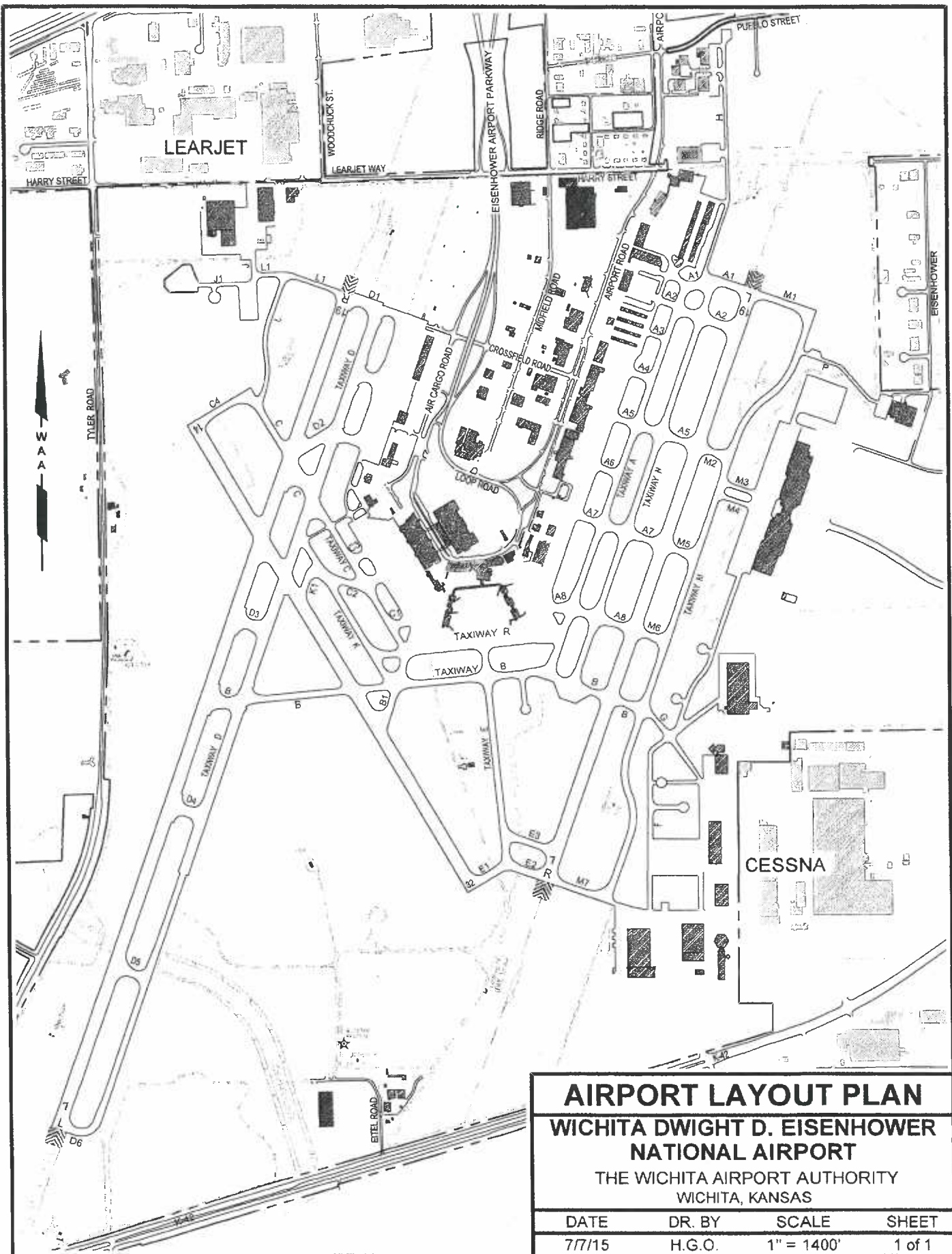
One day of on-site meetings to present final project findings and to demonstrate use of applicable tools and software is included in this task. Topics can include airfield PCI procedure details, installing and using PAVER™ software, and/or the use of various FAA software programs, such as FAARFIELD to determine structural remaining life and design requirements or COMFAA to determine PCNs, ACNs, cumulative damage factors resulting from traffic, and allowable aircraft loads. The meetings and demonstrations can include any combination of these topics, as deemed important by WAA. APTech will also work with WAA to install associated software; however, software licenses (such as for PAVER™) are not included.

### **WAA Provided Items**

There are no specific items required from WAA for this task.

### **Deliverables**

There are no deliverables planned for this task; however, any presentations developed to summarize the project results will be provided to WAA.



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<b>AIRPORT LAYOUT PLAN</b> <b>WICHITA DWIGHT D. EISENHOWER</b> <b>NATIONAL AIRPORT</b> THE WICHITA AIRPORT AUTHORITY WICHITA, KANSAS			
DATE	DR. BY	SCALE	SHEET
7/7/15	H.G.O.	1" = 1400'	1 of 1



**REVISED NON-DISCRIMINATION AND  
EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM  
REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS**

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.
  
- B. Requirements of the State of Kansas:
  - 1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;
  - 2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";
  - 3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
  - 4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
  - 5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.
  
- C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:

1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;
2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;
3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;
4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.
5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

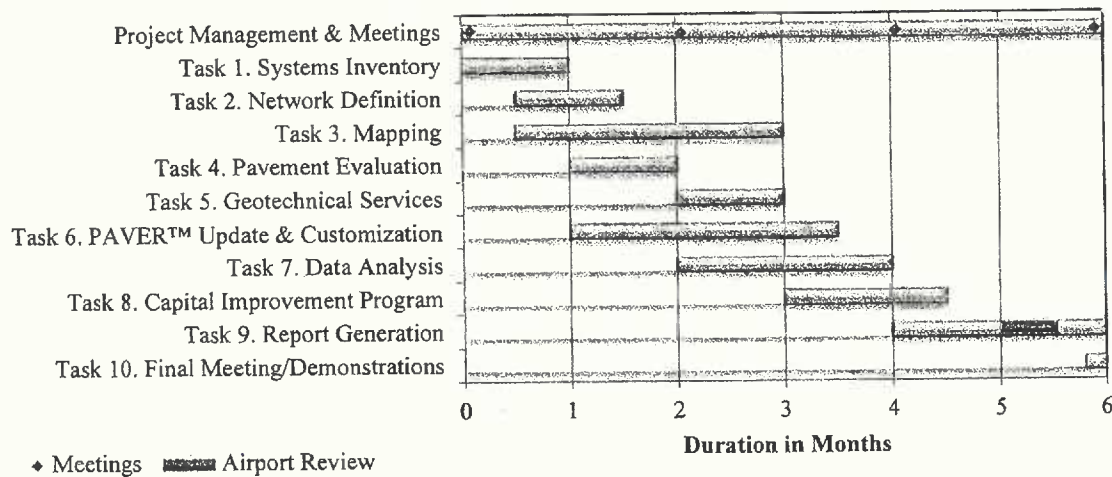
D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal

government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

## PROJECT SCHEDULE

APTech's proposal assumes that all tasks will occur during the 2016 calendar year. The timeline outlined in the figure below shows the planned duration of each task, the interdependency between the tasks, and meetings proposed at critical milestones throughout the project.



The kick-off meeting will occur at WAA's facilities at the start of the project. PCI inspectors and the FWD operator will begin the badging process at the time of this meeting. The field work will occur approximately two to three weeks after the kickoff meeting, allowing time to update the network definition maps and associated PAVER™ database and also allowing time for security-related paperwork to be processed for badging. FWD testing and PCI inspections will be done concurrently on the runways (so that only one closures is needed per runway), and will be performed concurrently on the taxiways to the extent possible.

Tasks associated with the following results will be prioritized for the GA Apron:

- PCIs.
- Structural remaining life and the associated structural deficiency where the remaining life is less than 10 years.
- CIP recommendations and associated costs.

The above results for the GA Apron will be provided using maps and tables via email; no intermediate project report will be provided. The results for the GA Apron will be provided within 60 days of completing the FWD testing for this area of the airfield. To accelerate this aspect of the schedule, APTech proposed to conduct FWD testing on the GA Apron at the time of the project kick-meeting, under escort of Airport staff. The remainder of the FWD testing will be conducted as indicated in the figure shown above.

All draft deliverables will be provided within 5 months of receiving the Notice to Proceed (NTP). Final project deliverables will be provided within 2 weeks of receiving WAA (and FAA, if applicable) comments.





## Required Contract Provisions for Airport Improvement Program and for Obligated Sponsors

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## RECORD OF CHANGES

No.	Date	Paragraph	Change
1	1/29/2016	Entire Document	Re-structured document to enhance user understanding of use and applicability; added suggested provisions for "Termination for Cause", "Recovered Materials", "Seismic Safety".

## REQUIREMENTS

### 1. Required Contract Provisions

Federal laws and regulations require that recipients of federal assistance (Sponsors) include specific contract provisions in certain contracts, requests for proposals, or invitations to bid.

Certain provisions must be included in all sponsor contracts, regardless of *whether or not* the contracts are federally-funded. This requirement was established when a sponsor accepted the Airport Improvement Program (AIP) grant assurances.

To maintain eligibility of their procurement actions, a sponsor must incorporate applicable contract provisions in all federally-assisted procurement and contract documents, including all subcontracts. For purposes of determining requirements for contract provisions, the term **contract** includes subcontracts.

### 2. Sponsor Requirements

In general, the sponsor must:

- 1) Incorporate applicable contract provisions in each contract funded under AIP;
  - a. Except as noted herein, a sponsor must physically incorporate the text of the provision within the procurement documents.
  - b. Where specifically noted, sponsors may incorporate select provisions by reference provided the sponsor indicates that the reference has the same force and effect as if given in full text.
- 2) Require the contractor (including all subcontractors) to insert these contract provisions in each lower tier contracts ( e.g. subcontract or sub-agreement);
- 3) Require the contractor (or subcontractor) to incorporate the applicable requirements of these contract provisions by reference for work done under any purchase orders, rental agreements and other agreements for supplies or services;
- 4) Require that the prime contractor be responsible for compliance with these contract provisions by any subcontractor, lower-tier subcontractor or service provider;
- 5) Verify that any required local or State provision does not conflict with, or alter a Federal law or regulation.

### 3. Incorporation of Provisions

The statutes and regulations that establish the requirements for contract provisions do not always specify language the sponsor must use to address the requirement. Appendix A of this guide provides information on when a provision or clause has mandatory language that a sponsor must apply. Refer to the subheading *Applicability* for each provision.

Whenever a clause or provision has mandatory text, the sponsor must incorporate the text of the provision without change. The only exception to this restriction is for those instances within the provision text that require the sponsor to insert appropriate information such as name or value. To align with the sponsor's standard contract language, the word "Owner" may also be replaced with "Airport

Authority” or their standard method of referring to the sponsor in contracts. Any modification beyond what is specifically permitted is not permitted and may invalidate the clause.

For those provisions that do not have required language, this guidance provides model language acceptable to the FAA in meeting the intent and purpose of the law or regulation. Some sponsors may already have standard procurement language that is equivalent to those Federal provisions that do not have explicit mandatory language. In these cases, sponsors may use their existing standard procurement provision language provided the text meets the intent and purpose of the Federal law or regulation.

Contract clause language must be made available to bidders. The Sponsor does this by including the required language in Requests for Bids, Notices to Bidders, or in the contract.

#### **4. Requests for Bids (Advertisement) and Notice to Bidders**

The sponsor may incorporate certain provisions *by reference* in the Request for Bids (the Advertisement) rather than including the entire text of the provision in the Request or Notice to Bidders. The sponsor must incorporate the full text of these provisions within any contract that originates from the procurement action. The provisions that can be incorporated by reference in the Request or Notice are:

- 1) Buy American Preference
- 2) Foreign Trade Restriction
- 3) Davis Bacon
- 4) Affirmative Action
- 5) Government-wide Debarment and Suspension
- 6) Government-wide Requirements for Drug-free Workplace

#### **5. Requirements For All Contracts Entered into by Obligated Sponsors.**

A sponsor’s acceptance of previous grant assurances obligates them to include certain notifications in all contracts and procurement actions they undertake regardless of funding source. Contracts and agreements fully funded by the sponsor must incorporate those select provisions.

#### **6. Failure to Comply with Provisions**

Sponsor failure to incorporate required provisions will jeopardize AIP eligibility of the sponsor’s project. Contractor failure to comply with the terms of these contract provisions may be sufficient grounds to:

- 1) Withhold progress payments or final payment;
- 2) Terminate the contract for cause;
- 3) Seek suspension/debarment; or
- 4) Take other action determined to be appropriate by the sponsor or the FAA.

#### **7. Applicability Matrix for Contract Provisions**

Table 1 summarizes the applicability of contract provisions based upon the type of contract or agreement. The dollar threshold represents the value at which, when equal to or exceeded, the sponsor must incorporate the provision in their contract or agreement. Supplemental information addressing applicability and use for each provision is located in Appendix A.

### Meaning of cell values

- REQD - a provision the sponsor must incorporate in their procurement action.
- Limited –a provision with limited applicability depending on circumstances of the procurement.
- n/a – a provision that is not applicable for that procurement type.

**Table 1 – Applicability of Provisions**

Provision	Dollar Threshold	Professional Services	Construction	Equipment	Property (Land)	Non-AIP Contracts
a. <u>Access to Records and Reports</u>	\$ 0	REQD	REQD	REQD	REQD	n/a
b. <u>Buy American Preferences</u>	\$ 0	Limited	REQD	REQD	Limited	n/a
(1) <u>Buy American Statement</u>	\$ 0	Limited	REQD	REQD	Limited	n/a
(2) <u>Buy American – Total Facility</u>	\$ 0	Limited	REQD	REQD	Limited	n/a
(3) <u>Buy American – Manufactured Product</u>	\$ 0	Limited	REQD	REQD	Limited	n/a
c. <u>Civil Rights – General</u>	\$ 0	REQD	REQD	REQD	REQD	REQD
d. <u>Civil Rights - Title VI Assurances</u>	\$ 0	REQD	REQD	REQD	REQD	REQD
(1) <u>Notice - Solicitation</u>	\$ 0	REQD	REQD	REQD	REQD	REQD
(2) <u>Clause - Contracts</u>	\$ 0	REQD	REQD	REQD	REQD	REQD
(3) <u>Clause – Transfer of U.S. Property</u>	\$ 0	n/a	n/a	n/a	REQD	REQD
(4) <u>Clause – Transfer of Real Property</u>	\$ 0	n/a	n/a	n/a	REQD	REQD
(5) <u>Clause - Construct/Use/Access to Real Property</u>	\$ 0	n/a	n/a	n/a	REQD	REQD
(6) <u>List – Pertinent Authorities</u>	\$0	REQD	REQD	REQD	REQD	REQD
e. <u>Disadvantaged Business Enterprise</u>	\$ 0	REQD	REQD	REQD	REQD	n/a
f. <u>Energy Conservation Requirements</u>	\$ 0	REQD	REQD	REQD	REQD	n/a
g. <u>Federal Fair Labor Standards Act</u>	\$ 0	REQD	REQD	REQD	REQD	REQD
h. <u>Occupational Safety and Health Act</u>	\$ 0	REQD	REQD	REQD	REQD	REQD
i. <u>Rights to Inventions</u>	\$ 0	Limited	Limited	Limited	n/a	n/a
j. <u>Trade Restriction Certification</u>	\$ 0	REQD	REQD	REQD	REQD	n/a
k. <u>Veteran's Preference</u>	\$ 0	REQD	REQD	REQD	REQD	n/a
l. <u>Seismic Safety</u>	\$ 0	Limited	Limited	n/a	n/a	n/a
m. <u>Copeland Anti-Kickback</u>	\$ 2,000	Limited	REQD	Limited	Limited	n/a
n. <u>Davis Bacon Requirements</u>	\$ 2,000	Limited	REQD	Limited	Limited	n/a
o. <u>Distracted Driving</u>	\$3,000	REQD	REQD	REQD	REQD	n/a
p. <u>Affirmative Action Requirement</u>	\$10,000	Limited	REQD	Limited	Limited	n/a
q. <u>Equal Employment Opportunity</u>	\$10,000	Limited	REQD	Limited	Limited	n/a
(1) <u>EEO Contract Clause</u>	\$10,000	Limited	REQD	Limited	Limited	n/a
(2) <u>EEO Specification</u>	\$10,000	Limited	REQD	Limited	Limited	n/a
r. <u>Prohibition of Segregated Facilities</u>	\$10,000	Limited	REQD	Limited	Limited	n/a
s. <u>Recovered Materials</u>	\$10,000	Limited	REQD	REQD	Limited	n/a
t. <u>Termination of Contract</u>	\$10,000	REQD	REQD	REQD	REQD	n/a
u. <u>Debarment and Suspension</u>	\$25,000	REQD	REQD	REQD	Limited	n/a
v. <u>Contract Work Hours and Safety Standards</u>	\$100,000	Limited	REQD	Limited	Limited	n/a
w. <u>Lobbying Federal Employees</u>	\$ 100,000	REQD	REQD	REQD	REQD	n/a
x. <u>Breach of Contract</u>	\$150,000	REQD	REQD	REQD	REQD	n/a
y. <u>Clean Air/Water Pollution Control</u>	\$150,000	REQD	REQD	REQD	REQD	n/a



## **APPENDIX A – CONTRACT PROVISIONS**

### **A1 ACCESS TO RECORDS AND REPORTS**

#### **A1.1 SOURCE**

2 CFR § 200.333

2 CFR § 200.336

FAA Order 5100.38

#### **A1.2 APPLICABILITY**

2 CFR § 200.333 requires a sponsor to retain records pertinent to a Federal award for a period of three years from submission of final closure documents. 2 CFR § 200.336 establishes that sponsors must provide Federal entities the right to access records pertinent to the Federal award. FAA policy extends these requirements to the sponsor's contracts and subcontracts of AIP funded projects.

**Contract Types** – The sponsor must include this provision in all contracts and subcontracts of AIP funded projects.

**Use of Provision** – The regulation does not prescribe mandatory language, the following language is acceptable to the FAA and meets the intent of this requirement. If the sponsor uses different language, the sponsor's language must fully satisfy the requirements of part 200.

#### **A1.3 CONTRACT CLAUSE**

##### **ACCESS TO RECORDS AND REPORTS**

The Contractor must maintain an acceptable cost accounting system. The Contractor agrees to provide the sponsor, the Federal Aviation Administration, and the Comptroller General of the United States or any of their duly authorized representatives, access to any books, documents, papers, and records of the contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Contractor agrees to maintain all books, records and reports required under this contract for a period of not less than three years after final payment is made and all pending matters are closed.

## A2 AFFIRMATIVE ACTION REQUIREMENT

### A2.1 SOURCE

41 CFR part 60-4

Executive Order 11246

### A2.2 APPLICABILITY

**Minority Participation.** Sponsors are required to set goals for minority participation in AIP funded projects. The goals for minority participation depend on Economic Area (EA) and Standard Metropolitan Statistical Area (SMSA) as established in Volume 45 of the Federal Register dated 10/3/80. Page 65984 contains a table of all EAs and SMSAs and the associated minority participation goals.

To find the goals for minority participation, a sponsor must either refer to the Federal Register Notice or to the Department of Labor document, "Technical Assistance Guide for Federal Construction Contractors". EA's and SMSA's cross state boundaries so a sponsor may have to refer to entries for adjacent states to find their project location.

A sponsor must insert the applicable percentage minority goal. Sponsor must not simply insert a reference to the Federal Register Notice.

**Female Participation.** Executive Order 11246 has set a goal of 6.9% nationally for female participation for all construction contractors. This value does not change per county or state.

#### **Contract Types –**

*Construction:* The sponsor must incorporate this notice in all solicitations for bids or requests for proposals for AIP funded construction work contracts and subcontracts that exceed \$10,000. Construction work means construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.

*Equipment:* The sponsor must incorporate this notice in any equipment project exceeding \$10,000 that involves installation of equipment onsite (e.g. electrical vault equipment). This provision does not apply to equipment acquisition projects where the manufacture of the equipment takes place offsite at the vendor plant (e.g. firefighting and snow removal vehicles)

*Professional Services:* The sponsor must incorporate this notice in any professional service agreement if the professional service agreement includes construction work (as defined above) that exceed \$10,000. Examples include installation of noise monitoring systems.

*Property/Land:* The sponsor must incorporate this notice in any agreement associated with land acquisition if the agreement includes construction work (defined above) that exceeds \$10,000. Examples include demolition of structures or installation of boundary fencing.



**Use of Provision** – The sponsor must incorporate the text of this provision without modification. The sponsor must incorporate the established minority participation goal and the covered area by geographic name within the provision text.

## **A2.3 CONTRACT CLAUSE**

### **NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION to ENSURE EQUAL EMPLOYMENT OPPORTUNITY**

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.
2. The goals and timetables for minority and female participation, expressed in percentage terms for the contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

#### **Timetables**

Goals for minority participation for each trade: **[sponsor must insert established goal]**

Goals for female participation in each trade: 6.9%

These goals are applicable to all of the contractor's construction work (whether or not it is Federal or federally-assisted) performed in the covered area. If the contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the contractor also is subject to the goals for both its federally involved and non-federally involved construction.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs (OFCCP) within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address, and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed.

4. As used in this notice and in the contract resulting from this solicitation, the "covered area" is **[sponsor must insert state, county, and city]**.

## **A3 BREACH OF CONTRACT TERMS**

### **A3.1 SOURCE**

2 CFR § 200 Appendix II(A)

### **A3.2 APPLICABILITY**

This provision requires sponsors to incorporate administrative, contractual or legal remedies if contractors violate or breach contract terms. The sponsor must also include appropriate sanctions and penalties.

**Contract Types** – This provision is required for all contracts that exceed the simplified acquisition threshold as stated in 2 CFR Part 200, Appendix II (A). This threshold is occasionally adjusted for inflation, and is now equal to \$150,000.

**Use of Provision** – The regulation does not prescribe mandatory language. The following language is acceptable to the FAA and meets the intent of this requirement. If the sponsor uses different language, the sponsor's language must fully satisfy the requirements of part 200. Select either "contractor" or "consultant" as applicable.

### **A3.3 CONTRACT CLAUSE**

#### **BREACH OF CONTRACT TERMS**

Any violation or breach of terms of this contract on the part of the contractor or its subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement.

Owner will provide [*Contractor* | *Consultant*] written notice that describes the nature of the breach and corrective actions the [*Contractor* | *Consultant*] must undertake in order to avoid termination of the contract. Owner reserves the right to withhold payments to Contractor until such time the Contractor corrects the breach or the Owner elects to terminate the contract. The Owner's notice will identify a specific date by which the [*Contractor* | *Consultant*] must correct the breach. Owner may proceed with termination of the contract if the [*Contractor* | *Consultant*] fails to correct the breach by deadline indicated in the Owner's notice.

The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

## A4 BUY AMERICAN PREFERENCE

### A4.1 SOURCE

Title 49 USC § 50101

### A4.2 APPLICABILITY

The Buy-American Preference requirement in 49 USC § 50101 requires that all steel and manufactured goods used on AIP projects be produced in the United States. The statute gives the FAA the ability to issue a waiver to a sponsor to use non-domestic material on the AIP funded project. The sponsor may request that the FAA issue a waiver from the Buy American Preference requirements if the FAA finds that:

- 1) Applying the provision is not in the public interest;
- 2) The steel or manufactured goods are not available in sufficient quantity or quality in the United States;
- 3) The cost of components and subcomponents produced in the United States is more than 60 percent of the total components of a facility or equipment, and final assembly has taken place in the United States. Items that have an FAA standard specification item number (such as specific airport lighting equipment) are considered the equipment.
- 4) Applying this provision would increase the cost of the overall project by more than 25 percent.

**Timing of Waiver Requests.** The sponsor must submit Type 1 or Type 2 waiver requests *before* issuing a solicitation for bids or a request for proposal for a project.

The sponsor must submit Type 3 or Type 4 waiver requests *prior* to executing the contract. The FAA will generally not consider waiver requests after execution of the contract except where extraordinary only if extenuating circumstances exist. The FAA cannot review incomplete waiver requests or requests that the Sponsor has not reviewed for adequacy. Sponsor must assess the adequacy of the waiver request before forwarding the request to the FAA.

**Buy American Conformance List.** The FAA Office of Airports maintains a listing of equipment that has received National waivers from the Buy American Preference requirements or that fully meet the Buy American requirements. This Buy American Conformance List is available online at [www.faa.gov/airports/aip/buy\\_american/](http://www.faa.gov/airports/aip/buy_american/). Products listed on the Buy American Conformance list do not require a project specific Buy American Preference requirement waiver from the FAA.

**Facility Waiver Requests.** For construction of a facility, the sponsor may submit the waiver request after bid opening, but prior to contract execution. Examples of facility construction include terminal buildings, terminal renovation, and snow removal equipment buildings.

#### Contract Types –

*Construction and Equipment* - The sponsor must meet the Buy American Preference requirements of 49 USC § 50101 for all AIP funded projects that require steel or manufactured goods. The Buy America requirements flow down from the sponsor to first tier contractors, who

are responsible for ensuring that lower tier contractors and subcontractors are also in compliance.

Note: the Buy American Preference does not apply to equipment a contractor uses as a tool of their trade and does not remain as part of the project.

*Professional Services* – Professional service agreements (PSA) do not normally result in a deliverable that meets the definition of a manufactured product. However, the emergence of different project delivery methods has created situations where task deliverables may include a manufactured product. If a PSA includes providing a manufactured good as part of the contract, the sponsor must include the Buy American Preference provision in the agreement.

*Property* – Most land transactions do not involve acquiring a manufactured product. However, under certain circumstances, a property acquisition project could result in the installation of a manufactured product. For example, the installation of property fencing, gates, doors and locks, etc. represent manufactured products acquired under the AIP funded project that must meet the Buy American Preference.

**Use of Provision** – The regulation does not prescribe mandatory language, the following language is acceptable to the FAA and meets the intent of this requirement. If the sponsor uses different language, the sponsor’s revised language must fully comply with 49 USC § 50101.

There are two types of Buy American certifications. The sponsor must incorporate the appropriate “Certificate of Buy America Compliance” in the solicitation:

- Projects for a facility (Buildings such as Terminal, SRE, ARFF, etc.) – Insert the Certificate of Compliance Based on Total Facility
- Projects for non-facility development (non-building construction projects such as runway or roadway construction; or equipment acquisition projects) – Insert the Certificate of Compliance Based on Equipment and Materials Used on the Project.

### **A4.3 CONTRACT CLAUSE**

#### **A4.3.1 Buy American Preference Statement**

##### **BUY AMERICAN PREFERENCE**

The contractor agrees to comply with 49 USC § 50101, which provides that Federal funds may not be obligated unless all steel and manufactured goods used in AIP funded projects are produced in the United States, unless the FAA has issued a waiver for the product; the product is listed as an Excepted Article, Material Or Supply in Federal Acquisition Regulation subpart 25.108; or is included in the FAA Nationwide Buy American Waivers Issued list.

A bidder or offeror must complete and submit the Buy America certification included herein with their bid or offer. The Owner will reject as nonresponsive any bid or offer that does not include a completed Certificate of Buy American Compliance.

#### **A4.3.2 Certificate of Buy American Compliance – Total Facility**

##### **CERTIFICATE OF BUY AMERICAN COMPLIANCE FOR TOTAL FACILITY**

As a matter of bid responsiveness, the bidder or offeror must complete, sign, date, and submit this certification statement with their proposal. The bidder or offeror must indicate how they intend to comply with 49 USC § 50101 by selecting one of the following certification statements. These statements are mutually exclusive. Bidder must select one or the other (i.e. not both) by inserting a checkmark (✓) or the letter "X".

- ☒ Bidder or offeror hereby certifies that it will comply with 49 USC. 50101 by:
- a) Only installing steel and manufactured products produced in the United States; or
  - b) Installing manufactured products for which the FAA has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing; or
  - c) Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the bidder or offeror agrees:

1. To provide to the Owner evidence that documents the source and origin of the steel and manufactured product.
  2. To faithfully comply with providing US domestic products.
  3. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.
- ☐ The bidder or offeror hereby certifies it cannot comply with the 100% Buy American Preferences of 49 USC § 50101(a) but may qualify for either a Type 3 or Type 4 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent bidder or offeror with the apparent low bid agrees:
1. To submit to the Owner within 15 calendar days of the bid opening, a formal waiver request and required documentation that support the type of waiver being requested.
  2. That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination that may result in rejection of the proposal.
  3. To faithfully comply with providing US domestic products at or above the approved US domestic content percentage as approved by the FAA.
  4. To furnish US domestic product for any waiver request that the FAA rejects.
  5. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

##### **Required Documentation**

**Type 3 Waiver** - The cost of components and subcomponents produced in the United States is more than 60% of the cost of all components and subcomponents of the "facility". The required documentation for a type 3 waiver is:

- a) Listing of all manufactured products that are not comprised of 100% US domestic content (Excludes products listed on the FAA Nationwide Buy American Waivers Issued listing and



products excluded by Federal Acquisition Regulation Subpart 25.108; products of unknown origin must be considered as non-domestic products in their entirety)

- b) Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly and installation at project location.
- c) Percentage of non-domestic component and subcomponent cost as compared to total "facility" component and subcomponent costs, excluding labor costs associated with final assembly and installation at project location.

**Type 4 Waiver** – Total cost of project using US domestic source product exceeds the total project cost using non-domestic product by 25%. The required documentation for a type 4 of waiver is:

- a) Detailed cost information for total project using US domestic product
- b) Detailed cost information for total project using non-domestic product

**False Statements:** Per 49 USC § 47126, this certification concerns a matter within the jurisdiction of the Federal Aviation Administration and the making of a false, fictitious or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code.

3/22/16  
Date  
Applied Pavemat Technology, Inc.  
Company Name

Mary D. Uhl  
Signature  
Vice President  
Title

### **A4.3.3 Certificate of Buy American Compliance – Manufactured Product**

#### **Certificate of Buy American Compliance for Manufactured Products**

As a matter of bid responsiveness, the bidder or offeror must complete, sign, date, and submit this certification statement with their proposal. The bidder or offeror must indicate how they intend to comply with 49 USC § 50101 by selecting one on the following certification statements. These statements are mutually exclusive. Bidder must select one or the other (not both) by inserting a checkmark (✓) or the letter “X”.

- ☒ Bidder or offeror hereby certifies that it will comply with 49 USC § 50101 by:
- a) Only installing steel and manufactured products produced in the United States, or;
  - b) Installing manufactured products for which the FAA has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing, or;
  - c) Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the bidder or offeror agrees:

1. To provide to the Owner evidence that documents the source and origin of the steel and manufactured product.
2. To faithfully comply with providing US domestic product
3. To furnish US domestic product for any waiver request that the FAA rejects
4. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

- ☐ The bidder or offeror hereby certifies it cannot comply with the 100% Buy American Preferences of 49 USC § 50101(a) but may qualify for either a Type 3 or Type 4 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent bidder or offeror with the apparent low bid agrees:

1. To the submit to the Owner within 15 calendar days of the bid opening, a formal waiver request and required documentation that support the type of waiver being requested.
2. That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination may result in rejection of the proposal.
3. To faithfully comply with providing US domestic products at or above the approved US domestic content percentage as approved by the FAA.
4. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

#### **Required Documentation**

**Type 3 Waiver** - The cost of the item components and subcomponents produced in the United States is more that 60% of the cost of all components and subcomponents of the “item”. The required documentation for a type 3 waiver is:

- a) Listing of all product components and subcomponents that are not comprised of 100% US domestic content (Excludes products listed on the FAA Nationwide Buy American

Waivers Issued listing and products excluded by Federal Acquisition Regulation Subpart 25.108; products of unknown origin must be considered as non-domestic products in their entirety).

- b) Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly at place of manufacture.
- c) Percentage of non-domestic component and subcomponent cost as compared to total "item" component and subcomponent costs, excluding labor costs associated with final assembly at place of manufacture.

**Type 4 Waiver** – Total cost of project using US domestic source product exceeds the total project cost using non-domestic product by 25%. The required documentation for a type 4 of waiver is:

- a) Detailed cost information for total project using US domestic product
- b) Detailed cost information for total project using non-domestic product

**False Statements:** Per 49 USC § 47126, this certification concerns a matter within the jurisdiction of the Federal Aviation Administration and the making of a false, fictitious or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code.

3/22/16  
Date  
Applied Pavement Technology, Inc.  
Company Name

Marty J. Wal  
Signature  
Vice President  
Title



## **A5 CIVIL RIGHTS - GENERAL**

### **A5.1 SOURCE**

49 USC § 47123

### **A5.2 APPLICABILITY**

Note: This provision is in addition to the Civil Rights – Title VI provisions.

**Contract Types** – The General Civil Rights Provisions found in 49 USC § 47123, derived from the Airport and Airway Improvement Act of 1982, Section 520, apply to all sponsor contracts regardless of funding source.

**Use of Provision** – There are two versions of this provision. One applies to sponsor contracts and the other applies to sponsor lease agreements and transfer agreements. The sponsor must incorporate the text of the appropriate provision without modification.

### **A5.3 CONTRACT CLAUSE**

#### **A5.3.1 Sponsor Contracts**

##### **GENERAL CIVIL RIGHTS PROVISIONS**

The contractor agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the contractor and subtier contractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

#### **A5.3.2 Sponsor Lease Agreements and Transfer Agreements**

##### **GENERAL CIVIL RIGHTS PROVISIONS**

The tenant/concessionaire/lessee and its transferee agree to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision obligates the tenant/concessionaire/lessee or its transferee for the period during which Federal assistance is extended to the airport through the Airport Improvement Program.

In cases where Federal assistance provides, or is in the form of personal property; real property or interest therein; structures or improvements thereon, this provision obligates the party or any transferee for the longer of the following periods:

(a) The period during which the property is used by the airport sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or

(b) The period during which the airport sponsor or any transferee retains ownership or possession of the property.

## **A6 CIVIL RIGHTS – TITLE VI ASSURANCE**

### **A6.1 SOURCE**

49 USC § 47123

FAA Order 1400.11

### **A6.2 APPLICABILITY**

Title VI of the Civil Rights Act of 1964, as amended, (Title VI) prohibits discrimination on the grounds of race, color, or national origin under any program or activity receiving Federal financial assistance. Sponsors must include appropriate clauses from the Standard DOT Title VI Assurances in all contracts and solicitations.

The clauses are as follows:

#### **A6.2.1 Applicability of Title VI Solicitation Notice**

<b>Contract Clause</b>	<b>The Sponsor must include the contract clause in:</b>	<b>Clause Text is Included in Paragraph</b>
Title VI Solicitation Notice	1) All solicitations for bids, requests for proposals work, or material subject to the nondiscrimination acts and regulations made in connection with Airport Improvement Program grants; and 2) All proposals for negotiated agreements regardless of funding source.	A6.3.1
Title VI Clauses for Compliance with Nondiscrimination Requirements	Every contract or agreement, unless the sponsor has determined and the FAA concurs, that the contract or agreement is not subject to the Nondiscrimination Acts and Authorities	A6.3.2
Title VI Required Clause for Property Interests Transferred from the United States	As a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a sponsor.	A6.3.3

<b>Contract Clause</b>	<b>The Sponsor must include the contract clause in:</b>	<b>Clause Text is Included in Paragraph</b>
Title VI Required Clause for Transfer of Real Property Acquired or Improved Under the Activity, Facility or Program	As a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the sponsor with other parties for all transfers of real property acquired or improved under the activity, facility, or program	A6.3.4
Clauses for Construction/Use/Access to Real Property Acquired Under the Activity, Facility or Program	As a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the sponsor with other parties for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program	A6.3.5
Title VI List Of Pertinent Nondiscrimination Acts And Authorities	Insert this list in every contract or agreement, unless the sponsor has determined and the FAA concurs, that the contract or agreement is not subject to the Nondiscrimination Acts and Authorities	A6.3.6

### **A6.3 CONTRACT CLAUSE**

#### **A6.3.1 Title VI Solicitation Notice**

##### **Title VI Solicitation Notice:**

The **(Name of Sponsor)**, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

## **A6.3.2 Title VI Clauses for Compliance with Nondiscrimination Requirements**

### **Compliance with Nondiscrimination Requirements**

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts And Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor’s obligations under this contract and the Nondiscrimination Acts And Authorities on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts And Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor’s noncompliance with the Non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
  - a. Withholding payments to the contractor under the contract until the contractor complies; and/or
  - b. Cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment,

unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

### **A6.3.3 Title VI Clauses for Deeds Transferring United States Property**

#### **CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY**

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of the Airport Improvement Program grant assurances.

**NOW, THEREFORE**, the Federal Aviation Administration as authorized by law and upon the condition that the (*Title of Sponsor*) will accept title to the lands and maintain the project constructed thereon in accordance with (*Name of Appropriate Legislative Authority*), for the (**Airport Improvement Program or other program for which land is transferred**), and the policies and procedures prescribed by the Federal Aviation Administration of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the (*Title of Sponsor*) all the right, title and interest of the U.S. Department of Transportation/Federal Aviation Administration in and to said lands described in (*Exhibit A attached hereto or other exhibit describing the transferred property*) and made a part hereof.

#### **(HABENDUM CLAUSE)**

**TO HAVE AND TO HOLD** said lands and interests therein unto (*Title of Sponsor*) and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the (*Title of Sponsor*), its successors and assigns.

The (*Title of Sponsor*), in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]\* (2) that the (*Title of Sponsor*) will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of

Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended[, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the Federal Aviation Administration and its assigns as such interest existed prior to this instruction].\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)



**A6.3.4 Title VI Clauses for Transfer of Real Property  
Acquired or Improved Under the Activity, Facility, or  
Program**

**CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE  
ACTIVITY, FACILITY, OR PROGRAM**

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the (*Title of Sponsor*) pursuant to the provisions of the Airport Improvement Program grant assurances.

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add “as a covenant running with the land”] that:
  - 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a Federal Aviation Administration activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the Pertinent List of Nondiscrimination Authorities (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Nondiscrimination covenants, (*Title of Sponsor*) will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.\*
- C. With respect to a deed, in the event of breach of any of the above Nondiscrimination covenants, the (*Title of Sponsor*) will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the (*Title of Sponsor*) and its assigns.\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)



**A6.3.5 Title VI Clauses for Construction/Use/Access to  
Real Property Acquired Under the Activity,  
Facility or Program**

**CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED  
UNDER THE ACTIVITY, FACILITY OR PROGRAM**

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by (*Title of Sponsor*) pursuant to the provisions of the Airport Improvement Program grant assurances.

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, “as a covenant running with the land”) that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the List of discrimination Acts And Authorities.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above nondiscrimination covenants, (*Title of Sponsor*) will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.\*
- C. With respect to deeds, in the event of breach of any of the above nondiscrimination covenants, (*Title of Sponsor*) will there upon revert to and vest in and become the absolute property of (*Title of Sponsor*) and its assigns.\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

### **A6.3.6 Title VI List of Pertinent Nondiscrimination Acts and Authorities**

#### **Title VI List of Pertinent Nondiscrimination Acts and Authorities**

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*).

## **A7 CLEAN AIR AND WATER POLLUTION CONTROL**

### **A7.1 SOURCE**

2 CFR § 200, Appendix II(G)

### **A7.2 APPLICABILITY**

**Contract Types** – This provision is required for all contracts and lower tier contracts that exceed \$150,000.

**Use of Provision** – The regulation does not prescribe mandatory language. The following language is acceptable to the FAA and meets the intent of this requirement. If the sponsor uses different language, the sponsor's language must fully satisfy the requirements of Appendix II to 2 CFR §200.

### **A7.3 CONTRACT CLAUSE**

#### **CLEAN AIR AND WATER POLLUTION CONTROL**

Contractor agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 U.S.C. § 740-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251-1387). The Contractor agrees to report any violation to the Owner immediately upon discovery. The Owner assumes responsibility for notifying the Environmental Protection Agency (EPA) and the Federal Aviation Administration.

Contractor must include this requirement in all subcontracts that exceeds \$150,000.

## **A8 CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS**

### **A8.1 SOURCE**

2 CFR § 200, Appendix II(E)

### **A8.2 APPLICABILITY**

Contract Workhours and Safety Standards Act Requirements, (CWHSSA) requires contractors and subcontractors on covered contracts to pay laborers and mechanics employed in the performance of the contracts one and one-half times their basic rate of pay for all hours worked over 40 in a workweek. CWHSSA prohibits unsanitary, hazardous, or dangerous working conditions on federally assisted projects. The Wage and Hour Division (WHD) within the U.S. Department of Labor (DOL) enforces the compensation requirements of this Act, while DOL's Occupational Safety and Health Administration (OSHA) enforces the safety and health requirements

#### **Contract Types –**

*Construction* - This provision applies to all contracts and lower tier contracts that exceed \$100,000, and employ laborers, mechanics, watchmen and guards.

*Equipment* - This provision applies to any equipment project exceeding \$100,000 that involves installation of equipment onsite (e.g. electrical vault equipment). This provision does not apply to equipment acquisition projects where the manufacture of the equipment takes place offsite at the vendor plant (e.g. ARFF and SRE vehicles)

*Professional Services* - This provision applies to professional service agreements that exceed \$100,000 and employs laborers, mechanics, watchmen and guards. This includes members of survey crews and exploratory drilling operations.

*Property* – While most land transactions do not involve employment of laborers, mechanics, watchmen and guards, under certain circumstances, a property acquisition project could require such employment. Examples include the installation of property fencing or testing for environmental contamination

**Use of Provision** – Sponsors must incorporate this text without modification.

### **A8.3 CONTRACT CLAUSE**

#### **CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS**

##### **1. Overtime Requirements.**

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic, including watchmen and guards, in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a

rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

**2. Violation; Liability for Unpaid Wages; Liquidated Damages.**

In the event of any violation of the clause set forth in paragraph (1) of this clause, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this clause, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this clause.

**3. Withholding for Unpaid Wages and Liquidated Damages.**

The Federal Aviation Administration (FAA) or the Owner shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 2 of this clause.

**4. Subcontractors.**

The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this clause.

## **A9 COPELAND “ANTI-KICKBACK” ACT**

### **A9.1 SOURCE**

2 CFR § 200, Appendix II(D)

29 CFR Parts 3 & 5

### **A9.2 APPLICABILITY and PURPOSE**

The Copeland (Anti-Kickback) Act (18 U.S.C. 874 and 40 U.S.C. 3145) makes it unlawful to induce by force, intimidation, threat of dismissal from employment, or by any other manner, any person employed in the construction or repair of public buildings or public works, financed in whole or in part by the United States, to give up any part of the compensation to which that person is entitled under a contract of employment. The Copeland Act also requires each contractor and subcontractor to furnish weekly a statement of compliance with respect to the wages paid each employee during the preceding week.

#### **Contract Types –**

*Construction* – This provision applies to all construction contracts and subcontracts financed under the AIP program that exceeds \$2,000.

*Equipment* – This provision applies to all equipment installation projects (e.g. electrical vault improvements) financed under the AIP program that exceeds \$ 2, 000. This provision does not apply to equipment acquisitions where the equipment is manufactured at the vendor’s plant (e.g. SRE and ARFF vehicles)

*Professional Services* - The emergence of different project delivery methods has created situations where Professional Service Agreements (PSA) includes tasks that meet the definition of construction, alteration or repair as defined in 29 CFR Part 5. If such tasks result in work that qualifies as construction, alteration or repair and it exceeds \$2,000, the PSA must incorporate the Copeland Anti-kickback provision.

*Property* - Ordinarily, land acquisition projects would not involve employment of laborers or mechanics and thus the Copeland Anti-Kickback provision would not apply. However, land projects that involve installation of boundary fencing and demolition of structures would involve laborers and mechanics. The sponsor must include this provision if the land acquisition project involves employment of laborers or mechanics for a contract exceeding \$2,000.

**Use of Provision** – 29 CFR Part 5 establishes specific language a sponsor must use in construction contracts. The sponsor may not make any modification to the standard language. A/E firms that employ laborers and mechanics on a task that meets the definition of construction, alteration or repair are acting as a contractor. The sponsor may not substitute the term “contractor” for “consultant” in such instances.



### **A9.3 CONTRACT CLAUSE**

#### **COPELAND “ANTI-KICKBACK” ACT**

Contractor must comply with the requirements of the Copeland “Anti-Kickback” Act (18 U.S.C. 874 and 40 U.S.C. 3145), as supplemented by Department of Labor regulation 29 CFR part 3. Contractor and subcontractors are prohibited from inducing, by any means, any person employed on the project to give up any part of the compensation to which the employee is entitled. The Contractor and each Subcontractor must submit to the Owner, a weekly statement on the wages paid to each employee performing on covered work during the prior week. Owner must report any violations of the Act to the Federal Aviation Administration.

## **A10 DAVIS-BACON REQUIREMENTS**

### **A10.1 SOURCE**

2 CFR § 200, Appendix II(D)

29 CFR Part 5

### **A10.2 APPLICABILITY**

The Davis-Bacon Act ensures that laborers and mechanics employed under the contract receive pay no less than the locally prevailing wages and fringe benefits as determined by the Department of Labor.

#### **Contract Types –**

*Construction* - Incorporate into all construction contracts and subcontracts that exceed \$2,000 and include funding from the AIP program.

*Equipment* – This provision applies to all equipment installation projects (e.g. electrical vault improvements) financed under the AIP program that exceeds \$ 2, 000. This provision does not apply to equipment acquisitions where the equipment is manufactured at the vendor's plant (e.g. SRE and ARFF vehicles)

*Professional Services* - The emergence of different project delivery methods has created situations where Professional Service Agreements (PSA) includes tasks that meet the definition of construction, alteration or repair as defined in 29 CFR Part 5. If such tasks result in work that qualifies as construction, alteration or repair and it exceeds \$2,000, the PSA must incorporate this clause.

*Property* - Ordinarily, land acquisition projects would not involve employment of laborers or mechanics and thus the provision would not apply. However, land projects that involve installation of boundary fencing and demolition of structures would involve laborers and mechanics. The sponsor must include this provision if the land acquisition project involves employment of laborers or mechanics for a contract exceeding \$2,000.

*Fencing Projects* - Fencing projects that exceed \$2,000 must include this provision.

**Use of Provision** – 29 CFR Part 5 establishes specific language a sponsor must use. The sponsor may not make any modification to the standard language. A/E firms that employ laborers and mechanics on a task that meets the definition of construction, alteration or repair are acting as a contractor. The sponsor may not substitute the term “contractor” for “consultant” in such instances.

### **A10.3 CONTRACT CLAUSE**

#### **DAVIS-BACON REQUIREMENTS**

##### **1. Minimum Wages**

(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any



account (except such payroll deductions as are permitted by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalent thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can easily be seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
- (2) The classification is utilized in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits where appropriate), the contracting officer shall

refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii) (B) or (C) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

## 2 Withholding.

The Federal Aviation Administration or the sponsor shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of work, all or part of the wages required by the contract, the Federal Aviation Administration may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

## 3. Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is

enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual costs incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Federal Aviation Administration if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to the Federal Aviation Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the Federal Aviation Administration if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit them to the applicant, sponsor, or owner, as the case may be, for transmission to the Federal Aviation Administration, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, sponsor, or owner).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR § 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR § 5.5 (a)(3)(i) and that such information is correct and complete;

(2) That each laborer and mechanic (including each helper, apprentice and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.



(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (3)(i) of this section available for inspection, copying or transcription by authorized representatives of the sponsor, the Federal Aviation Administration or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

#### 4. Apprentices and Trainees.

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an

apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate that is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal Employment Opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

#### 5. Compliance with Copeland Act Requirements.

The contractor shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this contract.

#### 6. Subcontracts.

The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR Part 5.5(a)(1) through (10) and such other clauses as the Federal Aviation Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR Part 5.5.

#### 7. Contract Termination: Debarment.

A breach of the contract clauses in paragraph 1 through 10 of this section may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

#### 8. Compliance With Davis-Bacon and Related Act Requirements.

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes Concerning Labor Standards.

Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6 and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of Eligibility.

(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

## **A11 DEBARMENT AND SUSPENSION**

### **A11.1 SOURCE**

2 CFR part 180 (Subpart C)

2 CFR part 1200

DOT Order 4200.5

### **A11.2 APPLICABILITY**

The sponsor must verify that the firm or individual that it is entering into a contract with are not presently suspended, excluded or debarred by any Federal department or agency from participating in federally-assisted projects. The sponsor accomplishes this by: (1) checking the System for Award Management (SAM.gov) to verify that the firm or individual is not listed in SAM.gov as being suspended, debarred or excluded, (2) collecting a certification from the firm or individual that they are not suspended, debarred or excluded, and (3) incorporating a clause in the contract that requires lower tier contracts to verify that no suspended, debarred or excluded firm or individual are included in the project.

**Contract Types** – This requirement applies to *covered transactions*, which are defined in 2 CFR part 180. AIP funded contracts are non-procurement transactions, as defined by §180.970. Covered transactions include any AIP-funded contract, regardless of tier, that is awarded by a contractor, subcontractor, supplier, consultant, or its agent or representative in any transaction, if the amount of the contract is expected to equal or exceed \$25,000. This includes contracts associated with land acquisition projects.

**Use of Provision** – The regulation does not prescribe mandatory language, the following language is acceptable to the FAA and meets the intent of this requirement. If the sponsor uses different language, the sponsor's language must fully satisfy the requirements of 2 CFR part 180. For professional service agreements, sponsor may substitute bidder/offeror with consultant.

### **A11.3 CONTRACT CLAUSE**

#### **A11.3.1 Bidder or Offeror Certification**

##### **CERTIFICATION OF OFFERER/BIDDER REGARDING DEBARMENT**

By submitting a bid/proposal under this solicitation, the bidder or offeror certifies that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

#### **A11.3.2 Lower Tier Contract Certification**

##### **CERTIFICATION OF LOWER TIER CONTRACTORS REGARDING DEBARMENT**

The successful bidder, by administering each lower tier subcontract that exceeds \$25,000 as a "covered transaction", must verify each lower tier participant of a "covered transaction" under the project is not

presently debarred or otherwise disqualified from participation in this federally assisted project. The successful bidder will accomplish this by:

1. Checking the System for Award Management at website: <http://www.sam.gov>
2. Collecting a certification statement similar to the Certificate Regarding Debarment and Suspension (Bidder or Offeror), above.
3. Inserting a clause or condition in the covered transaction with the lower tier contract

If the FAA later determines that a lower tier participant failed to disclose to a higher tier participant that it was excluded or disqualified at the time it entered the covered transaction, the FAA may pursue any available remedies, including suspension and debarment of the non-compliant participant.



## **A12 DISADVANTAGED BUSINESS ENTERPRISE**

### **A12.1 SOURCE**

49 CFR part 26

### **A12.2 APPLICABILITY and PURPOSE**

A sponsor that anticipates awarding \$250,000 or more in AIP funded prime contracts in a federal fiscal year must have an approved Disadvantaged Business Enterprise (DBE) program on file with the FAA Office of Civil Rights (§26.21). The approved DBE program will identify a 3-year overall program goal that the sponsor bases on the availability of ready, willing and able DBEs relative to all businesses ready, willing and able to participate on the project (§26.45).

**Contract Types** – Sponsors with a DBE program on file with the FAA must include the three following provisions, if applicable:

Clause in all solicitations for proposals for which a contract goal has been established.

Clause in each prime contract

Clause in solicitations that are obtaining DBE participation through race/gender neutral means.

#### **Use of Provision –**

1. Solicitations with a DBE Project Goal - 49 CFR §26.53 requires a sponsor's solicitation to address what a contractor must submit on proposed DBE participation. This language is not required for projects where DBE participation is by race-gender neutral means.

The regulation does not prescribe mandatory language, the following language is acceptable to the FAA and meets the intent of this requirement. If the sponsor uses different language, the sponsor's revised language must fully these requirements.

The sponsor may require the contractor's submittal on proposed DBE participation either with the bid or within a specified timeframe after bidding.

2. Contracts Covered by DBE Program - Sponsors must incorporate this language if they have a DBE program on file with the FAA. This includes projects where DBE participation is obtained through race-gender neutral means (i.e. no project goal). Sections §26.13 and §26.29 establish mandatory language for contractor assurance and prompt payment. The sponsor must not modify the language.
3. The regulation does not prescribe mandatory language. The following language is acceptable to the FAA and meets the intent of this requirement. If the sponsor uses different language, the sponsor's revised language must fully these requirements for a sponsor that is not applying a project specific contract goal but is covered by a DBE program on file with the FAA.
4. Sponsors that do not have a DBE program on file with the FAA are not required to include DBE provisions and clauses.

## **A12.3 CONTRACT PROVISIONS**

### **A12.3.1 Solicitation Language (Project Goal)**

The Owner's award of this contract is conditioned upon Bidder or Offeror satisfying the good faith effort requirements of 49 CFR §26.53.

As a condition of bid responsiveness, the Bidder or Offeror must submit the following information with their proposal on the forms provided herein:

- (1) The names and addresses of Disadvantaged Business Enterprise (DBE) firms that will participate in the contract;
- (2) A description of the work that each DBE firm will perform;
- (3) The dollar amount of the participation of each DBE firm listed under (1)
- (4) Written statement from Bidder or Offeror that attests their commitment to use the DBE firm(s) listed under (1) to meet the Owner's project goal;
- (5) If Bidder or Offeror cannot meet the advertised project DBE goal; evidence of good faith efforts undertaken by the Bidder or Offeror as described in appendix A to 49 CFR Part 26.

The successful Bidder or Offeror must provide written confirmation of participation from each of the DBE firms the Bidder or Offeror lists in their commitment. This Bidder or Offeror must submit the DBE's written confirmation of participation ["within 5 days of receiving the Owners notice of award" or "with the proposal documents as a condition of bid responsiveness"]

### **A12.3.2 Contract Clause**

#### **DISADVANTAGED BUSINESS ENTERPRISES**

**Contract Assurance (§ 26.13)** - The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the recipient deems appropriate.

**Prompt Payment (§26.29)** - The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than {specify number} days from the receipt of each payment the prime contractor receives from {Name of recipient}. The prime contractor agrees further to return retainage payments to each subcontractor within {specify the same number as above} days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the {Name of Recipient}. This clause applies to both DBE and non-DBE subcontractors.

### **A12.3.3 RACE/GENDER NEUTRAL LANGUAGE**

The requirements of 49 CFR part 26 apply to this contract. It is the policy of the [Insert Name of Owner] to practice nondiscrimination based on race, color, sex or national origin in the award or performance of this contract. The Owner encourages participation by all firms qualifying under this solicitation regardless of business size or ownership.

## **A13 DISTRACTED DRIVING**

### **A13.1 SOURCE**

Executive Order 13513

DOT Order 3902.10

### **A13.2 APPLICABILITY**

The FAA encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or sub-grant.

**Contract Types** – Sponsors must insert this provision in all AIP funded contracts that exceed the micro-purchase threshold of 2 CFR §200.67 (currently set at \$3,500).

**Use of Provision** – The regulation does not prescribe mandatory language, the following language is acceptable to the FAA and meets the intent of this requirement. If the sponsor uses different language, the sponsor's revised language must fully these requirements. .

### **A13.3 CONTRACT CLAUSE**

#### **TEXTING WHEN DRIVING**

In accordance with Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving" (10/1/2009) and DOT Order 3902.10 "Text Messaging While Driving" (12/30/2009), the FAA encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or sub-grant.

In support of this initiative, the Owner encourages the Contractor to promote policies and initiatives for its employees and other work personnel that decrease crashes by distracted drivers, including policies that ban text messaging while driving motor vehicles while performing work activities associated with the project. The Contractor must include the substance of this clause in all sub-tier contracts exceeding \$3,500 and involve driving a motor vehicle in performance of work activities associated with the project.

## **A14 ENERGY CONSERVATION REQUIREMENTS**

### **A14.1 SOURCE**

2 CFR § 200, Appendix II(H)

### **A14.2 APPLICABILITY**

The Energy Conservation Requirements found in 2 CFR § 200 Appendix II(H) requires this provision on energy efficiency.

**Contract Types** – The sponsor must include this provision in all AIP funded contracts and lower-tier contracts.

**Use of Provision** – The regulation does not prescribe mandatory language, the following language is acceptable to the FAA and meets the intent of this requirement. If the sponsor uses different language, the sponsor's revised language must fully these requirements. Sponsor may substitute "contractor and subcontractor" with "consultant and sub-consultant" for professional service agreements.

### **A14.3 CONTRACT CLAUSE**

#### **ENERGY CONSERVATION REQUIREMENTS**

Contractor and Subcontractor agree to comply with mandatory standards and policies relating to energy efficiency as contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201*et seq*).

## **A15 EQUAL EMPLOYMENT OPPORTUNITY (E.E.O.)**

### **A15.1 SOURCE**

2 CFR 200, Appendix II(C)

41 CFR § 60-1.4

41 CFR § 60-4.3

Executive Order 11246

### **A15.2 APPLICABILITY**

The purpose of this provision is to provide equal opportunity for all persons, without regard to race, color, religion, sex, or national origin who are employed or seeking employment with contractors performing under a federally assisted construction contract. There are two provisions – a construction clause and a specification clause.

The equal opportunity contract clause must be included in any contract or subcontract when the amount exceeds \$10,000. Once the equal opportunity clause is determined to be applicable, the contract or subcontract must include the clause for the remainder of the year, regardless of the amount or the contract.

#### **Contract Types –**

*Construction* – The sponsor must incorporate contract and specification language in all construction contracts and subcontracts as required above.

*Equipment* - The sponsor must incorporate contract and specification language into all equipment contracts as required above that involves installation of equipment onsite (e.g. electrical vault equipment). This provision does not apply to equipment acquisition projects where the manufacture of the equipment takes place offsite at the vendor plant (e.g. ARFF and SRE vehicles)

*Professional Services* - The sponsor must include contract and specification language into all professional service agreements as required above. *Property* – The sponsor must include contract and specification language into all land acquisition projects that include work that qualifies as construction work as defined by 41 CFR part 60 as required above. An example is installation of boundary fencing.

**Use of Provision** – 41 CFR § 60-1.4 provides the mandatory contract language. 41 CFR § 60-4.3 provides the mandatory specification language. The sponsor must incorporate these clauses without modification.

## **A15.3 MANDATORY CONTRACT CLAUSE**

### **A15.3.1 E.E.O. Contract Clause**

#### **EQUAL OPPORTUNITY CLAUSE**

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identify or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the



administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however,* That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.

### **A15.3.2 EEO Specification**

#### **STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION CONTRACT SPECIFICATIONS**

1. As used in these specifications:

- a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
- b. "Director" means Director, Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, or any person to whom the Director delegates authority;
- c. "Employer identification number" means the Federal social security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941;
- d. "Minority" includes:
  - (1) Black (all) persons having origins in any of the Black African racial groups not of Hispanic origin);
  - (2) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin regardless of race);
  - (3) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
  - (4) American Indian or Alaskan native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

2. Whenever the contractor, or any subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

3. If the contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors shall be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each contractor or subcontractor participating in an approved plan is individually required to comply with its obligations under the EEO clause and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other contractors or subcontractors toward a goal in an approved Plan does not excuse any covered contractor's or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.



4. The contractor shall implement the specific affirmative action standards provided in paragraphs 7a through 7p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing construction work in a geographical area where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement nor the failure by a union with whom the contractor has a collective bargaining agreement to refer either minorities or women shall excuse the contractor's obligations under these specifications, Executive Order 11246 or the regulations promulgated pursuant thereto.

6. In order for the non-working training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees shall be employed by the contractor during the training period and the contractor shall have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees shall be trained pursuant to training programs approved by the U.S. Department of Labor.

7. The contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The contractor shall document these efforts fully and shall implement affirmative action steps at least as extensive as the following:

a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the contractor's employees are assigned to work. The contractor, where possible, will assign two or more women to each construction project. The contractor shall specifically ensure that all foremen, superintendents, and other onsite supervisory personnel are aware of and carry out the contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.

c. Maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source, or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the contractor by the union or, if referred, not employed by the contractor, this shall be documented in the file with the reason therefore along with whatever additional actions the contractor may have taken.

- d. Provide immediate written notification to the Director when the union or unions with which the contractor has a collective bargaining agreement has not referred to the contractor a minority person or female sent by the contractor, or when the contractor has other information that the union referral process has impeded the contractor's efforts to meet its obligations.
- e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the contractor's employment needs, especially those programs funded or approved by the Department of Labor. The contractor shall provide notice of these programs to the sources compiled under 7b above.
- f. Disseminate the contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
- g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with onsite supervisory personnel such as superintendents, general foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- h. Disseminate the contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the contractor's EEO policy with other contractors and subcontractors with whom the contractor does or anticipates doing business.
- i. Direct its recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students; and to minority and female recruitment and training organizations serving the contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the contractor shall send written notification to organizations, such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
- j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer, and vacation employment to minority and female youth both on the site and in other areas of a contractor's workforce.
- k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.

- l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel, for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
  - m. Ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the contractor's obligations under these specifications are being carried out.
  - n. Ensure that all facilities and company activities are non-segregated except that separate or single user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
  - o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
  - p. Conduct a review, at least annually, of all supervisor's adherence to and performance under the contractor's EEO policies and affirmative action obligations.
8. Contractors are encouraged to participate in voluntary associations, which assist in fulfilling one or more of their affirmative action obligations (7a through 7p). The efforts of a contractor association, joint contractor union, contractor community, or other similar groups of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through 7p of these specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the contractor. The obligation to comply, however, is the contractor's and failure of such a group to fulfill an obligation shall not be a defense for the contractor's noncompliance.
9. A single goal for minorities and a separate single goal for women have been established. The contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, if the particular group is employed in a substantially disparate manner (for example, even though the contractor has achieved its goals for women generally,) the contractor may be in violation of the Executive Order if a specific minority group of women is underutilized.
10. The contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.
11. The contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
12. The contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination, and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any contractor who

fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.

14. The contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government, and to keep records. Records shall at least include for each employee, the name, address, telephone number, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

## **A16 FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)**

### **A16.1 SOURCE**

29 U.S.C. § 201, et seq

### **A16.2 APPLICABILITY**

The United States Department of Labor (DOL) Wage and Hour Division administers the Fair Labor Standards Act (FLSA). This act prescribes federal standards for basic minimum wage, overtime pay, record keeping and child labor standards.

**Contract Types** – Per the Department of Labor, all employees of certain enterprises having workers engaged in interstate commerce, producing goods for interstate commerce, or handling, selling, or otherwise working on goods or materials that have been moved in or produced for such commerce by any person, are covered by the FLSA.

All consultants, sub-consultants, contractors and subcontractors employed under this federally assisted project must comply with the FLSA.

**Professional Services** – 29 CFR § 213 exempts employees in a bona fide executive, administrative or professional capacity. Because professional firms employ individuals that are not covered by this exemption, the sponsor's agreement with a professional services firm must include the FLSA provision.

**Use of Provision** – The regulation does not prescribe mandatory language, the following language is acceptable to the FAA and meets the intent of this requirement. If the sponsor uses different language, the sponsor's language must fully satisfy the requirements of 29 U.S.C. § 201. The sponsor must select *contractor* or *consultant*, as appropriate for the contract.

### **A16.3 CONTRACT CLAUSE**

All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers.

The [*contractor* | *consultant*] has full responsibility to monitor compliance to the referenced statute or regulation. The [*contractor* | *consultant*] must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division



## **A17 LOBBYING AND INFLUENCING FEDERAL EMPLOYEES**

### **A17.1 SOURCE**

31 U.S.C. § 1352 – Byrd Anti-Lobbying Amendment

2 CFR part 200, Appendix II(J)

49 CFR part 20, Appendix A

### **A17.2 APPLICABILITY**

Consultants and contractors that apply or bid for an award of \$100,000 or more must certify that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or another award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.

**Contract Types** – The sponsor must incorporate this provision into all contracts exceeding \$100,000.

**Use of Provision** – Appendix A to 49 CFR Part 20 prescribes language the sponsor must use. The sponsor must incorporate this provision without modification.

### **A17.3 CONTRACT CLAUSE**

#### **CERTIFICATION REGARDING LOBBYING**

The bidder or offeror certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Bidder or Offeror, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

## **A18 PROHIBITION of SEGREGATED FACILITIES**

### **A18.1 SOURCE**

41 CFR § 60

### **A18.2 APPLICABILITY**

The contractor must comply with the requirements of the E.E.O. clause by ensuring that facilities they provide for employees are free of segregation on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin. This clause must be included in all contracts that include the equal opportunity clause, regardless of the amount of the contract.

**Contract Types** – AIP sponsors must incorporate the Prohibition of Segregated Facilities clause in any contract containing the Equal Employment Opportunity clause of 41 CFR §60.1. This obligation flows down to subcontract and sub-tier purchase orders containing the Equal Employment Opportunity clause.

*Construction* – Construction work means construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.

*Equipment* – On site installation of equipment such as airfield lighting control equipment meets the definition of construction and thus this provision would apply. This provision does not apply to equipment projects involving manufacture of the item at a vendor's manufacturing plant. An example would be the manufacture of a SRE or ARFF vehicle.

*Professional Services* - Professional services that include tasks that qualify as construction work as defined by 41 CFR part 60. Examples include the installation of noise monitoring equipment.

*Property/Land* - Land acquisition contracts that include tasks that qualify as construction work as defined by 41 CFR part 60. Examples include demolition of structures or installation of boundary fencing.

**Use of Provision** – The regulation does not prescribe mandatory language, the following language is acceptable to the FAA and meets the intent of this requirement. If the sponsor uses different language, the sponsor's language must fully satisfy the requirements of 41 CFR § 60.

### **A18.3 CONTRACT CLAUSE**

#### **PROHIBITION of SEGREGATED FACILITIES**

(a) The Contractor agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Contractor agrees that a breach of this clause is a violation of the Equal Opportunity clause in this contract.

(b) "Segregated facilities," as used in this clause, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, or national origin because of written or oral policies or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes.

(c) The Contractor shall include this clause in every subcontract and purchase order that is subject to the Equal Opportunity clause of this contract.



## **A19 OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970**

### **A19.1 SOURCE**

20 CFR part 1910

### **A19.2 APPLICABILITY**

**Contract Types** – All contracts and subcontracts must comply with the Occupational Safety and Health Act of 1970 (OSH). The United States Department of Labor Occupational Safety & Health Administration (OSHA) oversees the workplace health and safety standards wage provisions from OSH.

**Use of Provision** – The regulation does not prescribe mandatory language. The following language is acceptable to the FAA and meets the intent of this requirement. If the sponsor uses different language, the sponsor's language must fully satisfy the requirements of 20 CFR part 1910.

### **A19.3 CONTRACT CLAUSE**

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. Contractor must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The Contractor retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). Contractor must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

## A20 PROCUREMENT OF RECOVERED MATERIALS

### A20.1 SOURCE

2 CFR § 200.322

40 CFR part 247

### A20.2 APPLICABILITY

Sponsors of AIP funded development and equipment projects must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. Section 6002 emphasizes maximizing energy and resource recovery through use of affirmative procurement actions for recovered materials identified in the EPA guidelines.

The requirements of § 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.

**Contract Types** – This provision applies to any contracts that include procurement of products where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000.

*Construction and Equipment* – Include this provision in all construction and equipment projects

*Professional Services and Property* – Include this provision if the agreement includes procurement of a product that exceeds \$10,000

**Use of Provision** – The regulation does not prescribe mandatory language. The following language is acceptable to the FAA and meets the intent of this requirement. If the sponsor uses different language, the sponsor's language must fully satisfy the requirements of 2 CFR § 200.

### A20.3 CONTRACT CLAUSE

#### Procurement of Recovered Materials

Contractor and subcontractor agree to comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, and the regulatory provisions of 40 CFR Part 247. In the performance of this contract and to the extent practicable, the Contractor and subcontractors are to use of products containing the highest percentage of recovered materials for items designated by the Environmental Protection Agency (EPA) under 40 CFR Part 247 whenever:

- a) The contract requires procurement of \$10,000 or more of a designated item during the fiscal year; or,
- b) The contractor has procured \$10,000 or more of a designated item using Federal funding during the previous fiscal year.

The list of EPA-designated items is available at [www.epa.gov/epawaste/conserve/tools/cpg/products/](http://www.epa.gov/epawaste/conserve/tools/cpg/products/).

Section 6002(c) establishes exceptions to the preference for recovery of EPA-designated products if the contractor can demonstrate the item is:

- a) Not reasonably available within a timeframe providing for compliance with the contract performance schedule;
- b) Fails to meet reasonable contract performance requirements; or
- c) Is only available at an unreasonable price.

## **A21 RIGHT TO INVENTIONS**

### **A21.1 SOURCE**

2 CFR § 200, Appendix II(F)

37 CFR §401

### **A21.2 APPLICABILITY**

**Contract Types** – This provision applies to all contracts and subcontracts with small business firms or nonprofit organizations that includes performance of *experimental, developmental, or research work*. This clause is not applicable to construction, equipment or professional service contracts unless the contract includes *experimental, developmental or research work*.

**Use of Provision** – The regulation does not prescribe mandatory language. The following language is acceptable to the FAA and meets the intent of this requirement. If the sponsor uses different language, the sponsor's language must fully satisfy the requirements of Appendix II to 2 CFR part 200.

### **A21.3 CONTRACT CLAUSE**

#### **RIGHTS TO INVENTIONS**

Contracts or agreements that include the performance of experimental, developmental, or research work must provide for the rights of the Federal Government and the Owner in any resulting invention as established by 37 CFR part 401, Rights to Inventions Made by Non-profit Organizations and Small Business Firms under Government Grants, Contracts, and Cooperative Agreements. This contract incorporates by reference the patent and inventions rights as specified within in the 37 CFR §401.14. Contractor must include this requirement in all sub-tier contracts involving experimental, developmental or research work.

## **A22 SEISMIC SAFETY**

### **A22.1 SOURCE**

49 CFR part 41

### **A22.2 APPLICABILITY**

**Contract Types** – This provision applies to construction of new buildings and additions to existing buildings financed in whole or in part through the Airport Improvement Program.

*Professional Services and Construction* – Sponsor must incorporate this clause in any contract involved in the construction of new buildings or structural addition to existing buildings.

*Equipment* – Sponsor must include this provision if the project involves construction or structural addition to a building such as an electrical vault project.

*Land* – This provision will not typically apply to a property/land project.

**Use of Provision** – The regulation does not prescribe mandatory language. The following language is acceptable to the FAA and meets the intent of this requirement. If the sponsor uses different language, the sponsor's language must fully satisfy the requirements of 49 CFR part 41.

### **A22.3 CONTRACT CLAUSE**

#### **A22.3.1 Professional Service Agreements for Design**

##### **Seismic Safety**

In the performance of design services, the Consultant agrees to furnish a building design and associated construction specification that conform to a building code standard which provides a level of seismic safety substantially equivalent to standards as established by the National Earthquake Hazards Reduction Program (NEHRP). Local building codes that model their building code after the current version of the International Building Code (IBC) meet the NEHRP equivalency level for seismic safety. At the conclusion of the design services, the Consultant agrees to furnish the Owner a "certification of compliance" that attests conformance of the building design and the construction specifications with the seismic standards of NEHRP or an equivalent building code.

#### **A22.3.2 Construction Contracts**

##### **Seismic Safety**

The contractor agrees to ensure that all work performed under this contract, including work performed by subcontractors, conforms to a building code standard that provides a level of seismic safety substantially equivalent to standards established by the National Earthquake Hazards Reduction Program (NEHRP). Local building codes that model their code after the current version of the International Building Code (IBC) meet the NEHRP equivalency level for seismic safety.

## **A23 TERMINATION OF CONTRACT**

### **A23.1 SOURCE**

2 CFR § 200 Appendix II(B)

FAA Advisory Circular 150/5370-10, Section 80-09

### **A23.2 APPLICABILITY**

**Contract Types** – All contracts and subcontracts in excess of \$10,000 must address *termination for cause* and *termination for convenience* by the sponsor. The provision must address the manner (i.e. notice, opportunity to cure, and effective date) by which the sponsor's contract will be affected and the basis for settlement (i.e. incurred expenses, completed work, profit, etc.).

#### **Use of Provision –**

*Termination for Default* - Section 80-09 of FAA Advisory Circular 150/5370-10 establishes standard language for Termination for Default under a construction contract. The sponsor must not make any changes to this standard language.

*Termination for Convenience* – The sponsor must include a clause for termination for convenience. The following language is acceptable to the FAA and meets the intent of this requirement. If the sponsor uses different language, the sponsor's language must fully satisfy the requirements of Appendix II to 2 CFR part 200.

*Equipment, Professional Services and Property* – The sponsor may use their established clause language provided that it adequately addresses the intent of Appendix II(B) to Part 200, which addresses termination for fault and for convenience.

### **A23.3 CONTRACT CLAUSE**

#### **A23.3.1 Termination for Convenience**

##### **Termination for Convenience (Construction & Equipment Contracts)**

The Owner may terminate this contract in whole or in part at any time by providing written notice to the Contractor. Such action may be without cause and without prejudice to any other right or remedy of Owner. Upon receipt of a written notice of termination, except as explicitly directed by the Owner, the Contractor shall immediately proceed with the following obligations regardless of any delay in determining or adjusting amounts due under this clause:

1. Contractor must immediately discontinue work as specified in the written notice.
2. Terminate all subcontracts to the extent they relate to the work terminated under the notice.
3. Discontinue orders for materials and services except as directed by the written notice.
4. Deliver to the owner all fabricated and partially fabricated parts, completed and partially completed work, supplies, equipment and materials acquired prior to termination of the work and as directed in the written notice.
5. Complete performance of the work not terminated by the notice.

6. Take action as directed by the owner to protect and preserve property and work related to this contract that Owner will take possession.

Owner agrees to pay Contractor for:

- a) completed and acceptable work executed in accordance with the contract documents prior to the effective date of termination;
- b) documented expenses sustained prior to the effective date of termination in performing work and furnishing labor, materials, or equipment as required by the contract documents in connection with uncompleted work;
- c) reasonable and substantiated claims, costs and damages incurred in settlement of terminated contracts with Subcontractors and Suppliers; and
- d) reasonable and substantiated expenses to the contractor directly attributable to Owner's termination action

Owner will not pay Contractor for loss of anticipated profits or revenue or other economic loss arising out of or resulting from the Owner's termination action.

The rights and remedies this clause provides are in addition to any other rights and remedies provided by law or under this contract.

#### **Termination for Convenience (Professional Services)**

The Owner may, by written notice to the Consultant, terminate this Agreement for its convenience and without cause or default on the part of Consultant. Upon receipt of the notice of termination, except as explicitly directed by the Owner, the Contractor must immediately discontinue all services affected.

Upon termination of the Agreement, the Consultant must deliver to the Owner all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete.

Owner agrees to make just and equitable compensation to the Consultant for satisfactory work completed up through the date the Consultant receives the termination notice. Compensation will not include anticipated profit on non-performed services.

Owner further agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

### **A23.3.2 Termination for Default**

#### **Termination for Default (Construction)**

Section 80-09 of FAA Advisory Circular 150/5370-10 establishes conditions, rights and remedies associated with Owner termination of this contract due default of the Contractor.

#### **Termination for Default (Equipment)**

The Owner may, by written notice of default to the Contractor, terminate all or part of this Contract if the Contractor:

1. Fails to commence the Work under the Contract within the time specified in the Notice- to-Proceed;
2. Fails to make adequate progress as to endanger performance of this Contract in accordance with its terms;



3. Fails to make delivery of the equipment within the time specified in the Contract, including any Owner approved extensions;
4. Fails to comply with material provisions of the Contract;
5. Submits certifications made under the Contract and as part of their proposal that include false or fraudulent statements;
6. Becomes insolvent or declares bankruptcy;

If one or more of the stated events occur, the Owner will give notice in writing to the Contractor and Surety of its intent to terminate the contract for cause. At the Owner's discretion, the notice may allow the Contractor and Surety an opportunity to cure the breach or default.

If within [10] days of the receipt of notice, the Contractor or Surety fails to remedy the breach or default to the satisfaction of the Owner, the Owner has authority to acquire equipment by other procurement action. The Contractor will be liable to the Owner for any excess costs the Owner incurs for acquiring such similar equipment.

Payment for completed equipment delivered to and accepted by the Owner shall be at the Contract price. The Owner may withhold from amounts otherwise due the Contractor for such completed equipment, such sum as the Owner determines to be necessary to protect the Owner against loss because of Contractor default.

Owner will not terminate the Contractor's right to proceed with the Work under this clause if the delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such acceptable causes include: acts of God, acts of the Owner, acts of another Contractor in the performance of a contract with the Owner, and severe weather events that substantially exceed normal conditions for the location.

If, after termination of the Contractor's right to proceed, the Owner determines that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the Owner issued the termination for the convenience the Owner.

The rights and remedies of the Owner in this clause are in addition to any other rights and remedies provided by law or under this contract.

#### **Termination for Default (Professional Services)**

Either party may terminate this Agreement for cause if the other party fails to fulfill its obligations that are essential to the completion of the work per the terms and conditions of the Agreement. The party initiating the termination action must allow the breaching party an opportunity to dispute or cure the breach.

The terminating party must provide the breaching party [7] days advance written notice of its intent to terminate the Agreement. The notice must specify the nature and extent of the breach, the conditions necessary to cure the breach, and the effective date of the termination action. The rights and remedies in this clause are in addition to any other rights and remedies provided by law or under this agreement.

- a) **Termination by Owner:** The Owner may terminate this Agreement in whole or in part, for the failure of the Consultant to:
  1. Perform the services within the time specified in this contract or by Owner approved extension;
  2. Make adequate progress so as to endanger satisfactory performance of the Project;



3. Fulfill the obligations of the Agreement that are essential to the completion of the Project.

Upon receipt of the notice of termination, the Consultant must immediately discontinue all services affected unless the notice directs otherwise. Upon termination of the Agreement, the Consultant must deliver to the Owner all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete.

Owner agrees to make just and equitable compensation to the Consultant for satisfactory work completed up through the date the Consultant receives the termination notice. Compensation will not include anticipated profit on non-performed services.

Owner further agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

If, after finalization of the termination action, the Owner determines the Consultant was not in default of the Agreement, the rights and obligations of the parties shall be the same as if the Owner issued the termination for the convenience of the Owner.

b) **Termination by Consultant:** The Consultant may terminate this Agreement in whole or in part, if the Owner:

1. Defaults on its obligations under this Agreement;
2. Fails to make payment to the Consultant in accordance with the terms of this Agreement;
3. Suspends the Project for more than [180] days due to reasons beyond the control of the Consultant.

Upon receipt of a notice of termination from the Consultant, Owner agrees to cooperate with Consultant for the purpose of terminating the agreement or portion thereof, by mutual consent. If Owner and Consultant cannot reach mutual agreement on the termination settlement, the Consultant may, without prejudice to any rights and remedies it may have, proceed with terminating all or parts of this Agreement based upon the Owner's breach of the contract.

In the event of termination due to Owner breach, the Engineer is entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all justified reimbursable expenses incurred by the Consultant through the effective date of termination action. Owner agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

## **A24 TRADE RESTRICTION CERTIFICATION**

### **A24.1 SOURCE**

49 USC § 50104

49 CFR part 30

### **A24.2 APPLICABILITY**

Unless waived by the Secretary of Transportation, sponsors may not use AIP funds on a product or service from a foreign country included in the current list of countries that discriminate against U.S. firms as published by the Office of the United States Trade Representative (U.S.T.R)

**Contract Types** – The trade restriction certification and clause applies to all AIP funded projects.

**Use of Provision** – 49 CFR part 30 prescribes the language for this model clause. The sponsor must include this certification language in all contracts and subcontracts without modification.

### **A24.3 CONTRACT CLAUSE**

#### **TRADE RESTRICTION CERTIFICATION**

By submission of an offer, the Offeror certifies that with respect to this solicitation and any resultant contract, the Offeror -

- a. is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms as published by the Office of the United States Trade Representative (U.S.T.R.);
- b. has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country included on the list of countries that discriminate against U.S. firms as published by the U.S.T.R; and
- c. has not entered into any subcontract for any product to be used on the Federal on the project that is produced in a foreign country included on the list of countries that discriminate against U.S. firms published by the U.S.T.R.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

The Offeror/Contractor must provide immediate written notice to the Owner if the Offeror/Contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The Contractor must require subcontractors provide immediate written notice to the Contractor if at any time it learns that its certification was erroneous by reason of changed circumstances.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to an Offeror or subcontractor:

- (1) who is owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the U.S.T.R. or
- (2) whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such U.S.T.R. list or
- (3) who incorporates in the public works project any product of a foreign country on such U.S.T.R. list;

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

The Offeror agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in all lower tier subcontracts. The contractor may rely on the certification of a prospective subcontractor that it is not a firm from a foreign country included on the list of countries that discriminate against U.S. firms as published by U.S.T.R, unless the Offeror has knowledge that the certification is erroneous.

This certification is a material representation of fact upon which reliance was placed when making an award. If it is later determined that the Contractor or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration may direct through the Owner cancellation of the contract or subcontract for default at no cost to the Owner or the FAA.

## **A25 VETERAN'S PREFERENCE**

### **A25.1 SOURCE**

49 USC § 47112(c)

### **A25.2 APPLICABILITY**

**Contract Types** – This provision applies to all AIP funded projects that involve labor to carry out the project. This preference, which excludes executive, administrative and supervisory positions, applies to covered veterans (as defined under §47112(c)) only when they are readily available and qualified to accomplish the work required by the project.

**Use of Provision** – The regulation does not prescribe mandatory language, the following language is acceptable to the FAA and meets the intent of this requirement. If the sponsor uses different language, the sponsor's language must fully satisfy the requirements of 49 U.S.C. § 47112.

### **A25.3 CONTRACT CLAUSE**

#### **VETERAN'S PREFERENCE**

In the employment of labor (excluding executive, administrative, and supervisory positions), the contractor and all sub-tier contractors must give preference to covered veterans as defined within Title 49 United States Code Section 47112. Covered veterans include Vietnam-era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns (as defined by 15 U.S.C. 632) owned and controlled by disabled veterans. This preference only applies when there are covered veterans readily available and qualified to perform the work to which the employment relates.

Name	Title	Estimated Labor Hours										% Time
		Task 1	Task 2	Task 3	Task 4	Task 5	Task 6	Task 7	Task 8	Task 9	Task 10	Total
Monty Wade	Principal Investigator	2			2			2	2	4	2	14
Gen Long	Project Manager	24	2	4	36	4	6	60	32	32	20	220
Bill Weiss	QC Administrator				6		6	2				21
James Pfaff	Project Engineer	40	16	4	124		32	100	40	40		396
Carol Truschke	Project Engineer	12			4	8		300				35
Dustin Pulleyblank	FWD Operator	16		60	32				6			108
Trent Montgomery	CAD/GIS Technician											8
Jeremy Birkey	Technical Editor											1
Total Staffing Hours		94	18	68	204	12	52	464	80	126	22	1140

Name	Title	Estimated Labor Costs										2016 Base Rate
		Task 1	Task 2	Task 3	Task 4	Task 5	Task 6	Task 7	Task 8	Task 9	Task 10	Total
Monty Wade	Principal Investigator	\$131			\$131			\$131	\$131	\$262	\$131	\$919
Gen Long	Project Manager	\$1,172	\$98	\$195	\$1,758	\$195	\$293	\$2,929	\$1,562	\$1,562	\$976	\$10,740
Bill Weiss	QC Administrator				\$271		\$271	\$90				\$482
James Pfaff	Project Engineer	\$1,380	\$552	\$138	\$4,277	\$280	\$1,104	\$3,449	\$1,380	\$1,380		\$4524
Carol Truschke	Project Engineer	\$420			\$140			\$10,491		\$1,399		\$3449
Dustin Pulleyblank	FWD Operator	\$392		\$1,497	\$784		\$200		\$150	\$100		\$12,729
Trent Montgomery	CAD/GIS Technician											\$3497
Jeremy Birkey	Technical Editor									\$129		\$2449
Total AP Tech Direct Labor (TADL)		\$1,494	\$649	\$1,830	\$7,361	\$475	\$1,868	\$17,091	\$3,223	\$4,832	\$1,108	\$41,930
AP Tech Overhead (OH)		\$5,352	\$995	\$2,804	\$11,275	\$728	\$2,861	\$26,180	\$4,937	\$7,402	\$1,697	\$64,229
Total Burdened AP Tech Labor Costs (TBALC)		\$8,846	\$1,644	\$4,634	\$18,635	\$1,203	\$4,728	\$43,271	\$8,159	\$12,234	\$2,804	\$106,159

Other Direct Costs	Total Quantity	Unit Rate	Estimated Other Direct Costs									
			Task 1	Task 2	Task 3	Task 4	Task 5	Task 6	Task 7	Task 8	Task 9	Total
Communications, Printing, and Shipping		lump sum										\$120
Insurance Certificate		lump sum	\$25									\$25
Bidding Fees		lump sum				\$280						\$280
Travel												
Mileage (to/from airport)	310	\$0.54/mile				\$92				\$11		\$167
Lodging (\$95/day) + 15% Tax	33	\$109.25/day				\$3,605				\$219		\$3,605
Rental Car, Including Fuel	17	\$70/day				\$1,190				\$210		\$1,190
Per Diem	41	\$59/day				\$2,419				\$177		\$2,419
Airfare	8	\$700/ft				\$5,600				\$700		\$5,600
Airport Parking	41	\$5/day				\$205				\$15		\$205
FWD Mobilization	1250	\$2.60/mile				\$3,250				\$10		\$3,250
FWD Testing	14	\$1,800/day				\$25,200						\$25,200
Subcontracting Expenses												
Professional Engineering Consultants, P.A. (PEC)		lump sum				\$849				\$5,590		\$20,593
TREKK Design Group (TREKK)		lump sum				\$49,978						\$15,920
Total Other Direct Costs (TODC)			\$8,502			\$49,978	\$11,117	\$849		\$6,678	\$120	\$78,574

Overall Cost Summary	Estimated Overall Cost										Total
	Task 1	Task 2	Task 3	Task 4	Task 5	Task 6	Task 7	Task 8	Task 9	Task 10	
Total Burdened AP/Tech Labor Costs (TBALC)	\$8,846	\$1,644	\$4,634	\$18,635	\$1,203	\$4,728	\$43,271	\$8,159	\$12,234	\$2,804	\$106,159
Total Other Direct Costs (TODC)	\$8,502			\$49,978	\$11,117	\$849		\$6,678	\$120	\$1,331	\$78,574
Total Other Direct Costs (TODC)	\$17,348	\$1,644	\$4,634	\$68,613	\$12,320	\$5,577	\$43,271	\$14,837	\$12,354	\$4,136	\$184,733
Total Estimated Cost	\$885	\$164	\$463	\$1,864	\$120	\$473	\$4,327	\$816	\$1,223	\$280	\$10,616
Burdened Labor Fee											
Other Direct Cost Fee											
Total Estimated Cost and Fee	\$18,232	\$1,809	\$5,097	\$70,477	\$12,440	\$6,050	\$47,598	\$15,653	\$13,577	\$4,416	\$195,349

Project: ICT Pavement Management Update  
 Location: Wichita, KS  
 Airport: Wichita Dwight D. Eisenhower National Airport (ICT) Date: February 29, 2016

Design Phase Services

ID	Work Description	Principal	Project Manager	Project Engineer	Design Engineer	Design Tech	Drafter	CAD Machine HOURS as Expense
1.00	Task 1							0
1.01	Proposal Preparation		2					0
1.02	Attend Project Kick-Off Meeting		4					0
1.03	Review PEC In-house plans		3		12	6		6
1.04	Attend project progress meeting		3					0
1.05	Attend final project review meeting		4					0
2.00	Task 5 - See Attachment							
3.00	Task 6							
3.01	Research/estimate unit prices for maintenance/rehabilitation work		8					
4.00	Task 8							
4.01	Prepare construction cost estimates for 10-yr CIP projects (10 total)		40			20		
TOTAL		0	64	0	12	26	0	6

							CAD Machine HOURS as Expense
TOTAL HOURS =	0	64	0	12	26	0	6
HOURLY RATES =	\$45.00	\$38.75	\$33.80	\$25.20	\$24.60	\$20.20	\$18.00
SUBTOTAL =	\$0.00	\$2,480.00	\$0.00	\$302.40	\$639.60	\$0.00	\$108.00

TOTAL HOURS = 102  
 TOTAL DIRECT LABOR = \$3,422.00

EXPENSES (Lump Sum):		
Printing		
CAD hrs @ \$18.00/Hour	6	\$108.00
TOTAL =		\$108.00

DIRECT LABOR		\$3,422.00
OVERHEAD (2013)	148.86%	\$5,093.99
SUBTOTAL (Labor and Overhead)		\$8,515.99
PROFIT	10%	\$851.60
EXPENSES		\$108.00
Design Phase TOTAL FEE (Lump Sum)		\$9,475.59





ATTACHMENT A.1  
**CONSTRUCTION TESTING SERVICES ESTIMATED FEES**  
 Wichita Airport Authority Pavement Management  
 PEC Field Services Proposal No. C15199 Revision #1  
 February 22, 2016

Service	Quantity	Unit	Unit Rate	Estimate
<b>Field and Laboratory Services for Obtaining Concrete Cores</b>				
Drill Crew (3 Trips) obtain Shelby Tube solid samples from 10 borings	24	hours	\$ 130.00	\$ 3,120.00
Drill Rig Mobilization	1	each	\$ 450.00	\$ 450.00
Mileage (3 Trips)	30	miles	\$ 0.57	\$ 17.10
Sub-Consultant performed concrete coring	25	each	\$ 100.00	\$ 2,500.00
Field Logging and Photographing of Layers	15	hours	\$ 85.00	\$ 1,275.00
Atterberg Limits	20	each	\$ 72.00	\$ 1,440.00
Moisture Content	20	each	\$ 21.00	\$ 420.00
Dry Unit Weight	20	each	\$ 31.00	\$ 620.00
Project Management	15	hours	\$ 85.00	\$ 1,275.00
			<b>Subtotal</b>	<b>\$ 11,117.10</b>

**Total Estimated Fee      \$      11,117.10**

Does not include any cost associated with traffic control. Client to identify core locations prior to our arrival.

This estimate is based on a normal level of involvement based on the information provided to us and does not include fees associated with retesting, stand-by time, cancelled services, or services requested outside our scope of services. Many factors, including those beyond our control will dictate the final fee for our services. If additional services are requested that would cause our fee to exceed the estimated fee, a change order will be submitted for the appropriate amount. Hourly charges may be subject to a 3 hour minimum and will be billed in 0.5 hour increments.

MAN-HOUR AND FEE ESTIMATE

PA124		Total Price
Project Administration		\$2,253
Construction Observation		\$11,247
Travel Expenses		775
Per Diem		\$300
Total		\$13,065
Bidding Fees		265
Total		\$15,920

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Wichita, Kansas  
April 18, 2016  
10:00 a.m., Monday  
Conference Room, 12<sup>th</sup> Floor

MINUTES - BOARD OF BIDS AND CONTRACTS\*

The Board of Bids and Contracts met with Kim Pelton Administrative Aide II, Public Works Engineering in the Chair; Fanny Chan, Accountant, Finance, representing the Director of Finance, John Page, Budget Analyst, Budget Office, Clarence Rose, Senior Buyer, representing Purchasing, John Emerson, Fellow, representing the City Manager's Office and Janis Edwards, Deputy City Clerk, present.

Minutes of the regular meeting dated April 11, 2016, were read and on motion approved.

Bids were opened April 15, 2016, pursuant to advertisements published on:

**WICHITA AIRPORT AUTHORITY/ENGINEERING DIVISION: Light Pole  
Installation Airport Loop Road.**

Westar Energy\* - \$50,362.00

\*Purchases utilizing Sole Source of Supply Ordinance No. 35-856,  
2. (b)

The Purchasing Division recommended that the contracts be awarded outlined above.

On motion the Board of Bids recommended that the contracts be awarded as outlined above.

On motion the Board of Bids adjourned.

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Kim Pelton, Administrative Aide II  
Department of Public Works

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Janis Edwards, CMC  
Deputy City Clerk

**FORMAL BID REPORT**

**TO:** Robert Layton, City Manager  
**DATE:** April 18, 2016

**WICHITA AIRPORT AUTHORITY BIDS – VICTOR WHITE, DIRECTOR OF AIRPORTS**  
**April 18, 2016**

Light Pole Installation Airport Loop Road – Wichita Airport Authority/Engineering Division  
**Westar Energy**      **Sole Source of Supply, Ordinance No. 35-856, Section 2(b)**      **\$50,362.00**

**ITEMS TO BE PURCHASED AS ADVERTISED IN THE OFFICIAL CITY NEWSPAPER.**

  
Melinda A. Walker  
Purchasing Manager

April 18, 2016

## **Purchases Utilizing Sole Source of Supply**

### **Ordinance No. 35-856 Section 2. (b)**

**SUBJECT:** Light Pole Installation Airport Loop Road

Light pole installation along the north side of Airport Loop Road.

FOR A TOTAL OF \$50,362.00

This is a sole source of supply when material to be purchased is available from a sole distributor.

Department: Wichita Airport Authority/Engineering Division

Vendor	Reference Authority	Cost
Westar Energy	Ordinance No. 35-856 Section 2 (b)	\$50,362.00